



AUG 8 2003

GSA Office of Governmentwide Policy

MEMORANDUM FOR RONALD POUSSARD

DIRECTOR

DEFENSE ACQUISITION REGULATIONS COUNCIL

FROM:

RODNEY P. LANTIER, DIRECTOR
REGULATORY SECRETARIAT AND FEDERAL ASSISTANCE
PUBLICATIONS DIVISION

SUBJECT:

FAR Case N2003#1, Integrated Acquisition Environment Pilot;
Posting Award Contracts on the Worldwide Web

Attached are comments received on the subject FAR case published at 68 FR 33950; June 6, 2003. The comment closing date was August 5, 2003.

<u>Response Number</u>	<u>Date Received</u>	<u>Comment Date</u>	<u>Commenter</u>
N2003#1-1	07/17/03	07/17/03	Patrick Lewis
N2003#1-2	07/17/03	07/17/03	Robert Cotner
N2003#1-3	07/17/03	07/17/03	Robbie McGrath
N2003#1-4	07/17/03	07/17/03	Jon Erlichman
N2003#1-5	07/17/03	07/17/03	Joseph Esposotp
N2003#1-6	07/17/03	07/17/03	Craig Shapiro
N2003#1-7	07/17/03	07/17/03	Kamran Jazayeri
N2003#1-8	07/17/03	07/17/03	Matt Young
N2003#1-9	07/17/03	07/17/03	Keith Johns

<u>Response Number</u>	<u>Date Received</u>	<u>Comment Date</u>	<u>Commenter</u>
N2003#1-10	10/27/03	10/27/03	Jon Brown
N2003#1-11	07/17/03	07/17/03	Jessica Leppanen
N2003#1-12	10/28/03	10/28/03	Chris Younken
N2003#1-13	17/17/03	17/17/03	Tzena Bell
N2003#1-14	17/17/03	17/17/03	Mike McGuire
N2003#1-15	17/17/03	17/17/03	Daniel Guilfoil
N2003#1-16	17/17/03	17/17/03	Jason Meade
N2003#1-17	17/17/03	17/17/03	Clyde Noe
N2003#1-18	07/18/03	07/13/03	Susam Helmick
N2003#1-19	07/18/03	07/18/03	Margaret Midling
N2003#1-20	07/18/03	07/18/03	Leslie Strunk
N2003#1-21	07/18/03	07/18/03	Gabe Monroy
N2003#1-22	07/18/03	07/18/03	Mindy Stone
N2003#1-23	07/18/03	07/18/03	Alan Benesi
N2003#1-24	07/18/03	07/18/03	Babi Hammond
N2003#1-25	07/18/03	07/18/03	Timothy Coon
N2003#1-26	07/18/03	07/18/03	Thaddeus Owen
N2003#1-27	07/18/03	07/18/03	Anthony Sciarrone
N2003#1-28	07/18/03	07/18/03	Richard Johnson
N2003#1-29	07/18/03	07/18/03	Scott Ludlow

<u>Response Number</u>	<u>Date Received</u>	<u>Comment Date</u>	<u>Commenter</u>
N2003#1-30	07/18/03	07/18/03	Ben Kreider
N2003#1-31	07/18/03	07/18/03	Matt Tomlinson
N2003#1-32	07/18/03	07/18/03	Sam Evans
N2003#1-33	07/18/03	07/18/03	David Coles
N2003#1-34	07/18/03	07/18/03	Christine Rack
N2003#1-35	07/18/03	07/18/03	Brenden Whalley
N2003#1-36	07/18/03	07/18/03	Lynn Landes
N2003#1-37	07/18/03	07/18/03	Lydia Ball
N2003#1-38	07/18/03	07/18/03	Mike Bryan
N2003#1-39	07/18/03	07/18/03	Enrico Trabacca
N2003#1-40	07/19/03	07/19/03	Jerry Nevins
N2003#1-41	07/19/03	07/19/03	John March
N2003#1-42	07/19/03	07/19/03	Ronni Wolfe
N2003#1-43	07/19/03	07/10/03	Jeff & Karen Hay
N2003#1-44	07/19/03	07/10/03	Erik Shepherd
N2003#1-45	07/19/03	07/19/03	Curtis Tromm
N2003#1-46	07/20/03	07/20/03	C. Pollock
N2003#1-47	07/20/03	07/20/03	Jane Burrough
N2003#1-48	07/20/03	07/20/03	Dr. Tunde O. Oyibo
N2003#1-49	07/20/03	07/20/03	Kenneth Hill
N2003#1-50	07/20/03	07/20/03	Alex Green

<u>Response Number</u>	<u>Date Received</u>	<u>Comment Date</u>	<u>Commenter</u>
N2003#1-51	07/20/03	07/20/03	Adam Casto
N2003#1-52	07/21/03	07/21/03	Adam Carter
N2003#1-53	07/21/03	07/21/03	Jeff Greig
N2003#1-54	07/21/03	07/21/03	Adam Becherer
N2003#1-55	07/21/03	07/21/03	Jonathan Motley
N2003#1-56	08/06/03	07/29/03	R. Scott Schroth
N2003#1-57	08/06/03	08/06/03	H. Duane Malone
N2003#1-58	08/06/03	06/28/03	Vernelle McIntire
N2003#1-59	07/22/03	07/22/03	Joseph Smith
N2003#1-60	07/23/03	07/23/03	Mary Jo Brooks
N2003#1-61	07/23/03	07/23/03	Ron Feinman
N2003#1-62	07/24/03	07/24/03	Paul Verchinski
N2003#1-63	07/24/03	07/24/03	Paul Dearborn
N2003#1-64	07/24/03	07/24/03	Rebecca McNally
N2003#1-65	07/27/03	07/27/03	Mary Phillips
N2003#1-66	07/28/03	07/28/03	Steve Khoza
N2003#1-67	07/28/03	07/28/03	Thomas Gould
N2003#1-68	07/28/03	07/28/03	Papa K.
N2003#1-69	07/28/03	07/28/03	David Day
N2003#1-70	07/28/03	07/28/03	Larry Wise
N2003#1-71	07/29/03	07/29/03	Barbara Mercier

<u>Response Number</u>	<u>Date Received</u>	<u>Comment Date</u>	<u>Commenter</u>
N2003#1-72	08/06/03	07/28/03	Barbara Westlake
N2003#1-73	07/28/03	07/28/03	Renee Hall
N2003#1-74	07/29/03	07/29/03	Doug Terpstra
N2003#1-75	07/29/03	07/29/03	Leonard Pill
N2003#1- 76	07/29/03	07/29/02	Wayne Clemons
N2003#1-77	07/29/03	07/29/03	Federal Business Information Center
N2003#1-78	07/29/03	07/29/03	Barbara Edwards
N2003#1-79	07/30/03	07/30/03	Betty Durso
N2003#1-80	07/25/03	07/25/03	Howard Tolley
N2003#1-81	07/25/03	07/24/03	Grant Kuhns
N2003#1-82	08/04/03	08/04/03	Rolls-Royce
N2003#1-83	07/30/03	07/30/03	Kevin Prendergast
N2003#1-84	08/02/03	08/02/03	Scott Ashby
N2003#1-85	08/02/03	08/02/03	Mr.&Mrs. Bradham
N2003#1-86	08/02/03	08/02/03	Thomas Cheesman
N2003#1-87	08/06//03	07/28/033	Robert Hanneman
N2003#1-88	08/06/03	07/28/03	Mary Silva
N2003#1-89	08/03/03	08/03/03	Julia Milliren
N2003#1-90	08/03/03	08/03/03	Tim
N2003#1-91	07/26/03	08/06/03	Eunice Hausserman

<u>Response Number</u>	<u>Date Received</u>	<u>Comment Date</u>	<u>Commenter</u>
N2003#1-92	08/06/03	07/27/03	Susan Cox Granes
N2003#1-93	08/06/03	08/04/03	Lorie Lux
N2003#1-94	08/06/03	08/04/03	Barbara Hunley
N2003#1-95	08/06/03	08/05/03	Don Maddrey
N2003#1-96	08/05/03	08/06/03	Tony Caffrey
N2003#1-97	03/03/03	08/06/03	Laura Smith-Auletta (GSA)
N2003#1-98	03/02/03	03/02/03	Pat Hunt
N2003#1-99	08/05/03	08/05/03	CODSIA
N2003#1-100	08/07/03	08/07/03	DOD
N2003#1-101	08/07/03	08/07/03	Harry Whitman
N2003#1-102	08/07/03	08/07/03	Spart Galieti
N2003#1-103	08/07/03	08/07/03	Brian Tomasik
N2003#1-104	08/07/03	08/07/03	Marjorie Bowman
N2003#1-105	08/07/03	08/07/03	Agnes Martin
N2003#1-106	08/07/03	08/07/03	Lee G. Cook
N2002#1-107	08/07/03	08/07/03	Diane Malloy
N2003#1-108	08/19/03	08/19/03	Monica Marsicek
N2003#1-109	08/19/03	08/19/03	David Scott
N2003#1-110	08/14/03	08/14/03	Laurie Gengenbach
N2003#1-111	08/14/03	08/14/03	Robin Gaura

<u>Response Number</u>	<u>Date Received</u>	<u>Comment Date</u>	<u>Commenter</u>
N2003#1-112	08/13/03	08/13/03	Don Speicher
N2003#1-113	08/1/03	8/01/03	DoD/IG
N2003#1-114	08/13/03	08/05/03	ABA
N2003#1-115	08/09/03	08/09/03	Steve Robbins
N2003#1-116	08/08/03	08/08/03	Elizabeth Maurant
N2003#1-117	08/13/03	08/06/03	AIA
N2003#1-118	08/13/03	08/05/03	AFSCME

ATTACHMENTS

N/ 2003-NO1-1



"Patrick Lewis"
<patrick.lewis@minds
pring.com>

07/17/2003 11:21 PM
Please respond to
patrick.lewis

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Making Federal contracts available to the general public on the
worldwide web

To Whom it May Concern,

I was greatly intrigued by Ralph Nader's comments in his article "Open the Window on Government Contracts" published on the CommonDreams.org website on July 17, 2003. I encourage you to pursue the goal of the "citizen-centric E-Government." Nader's 4 points make sense for our country and I hope you can make this happen. Here are Nader's 4 points:

1.) it will enhance competitive bidding and give taxpayers both savings and higher quality performances; 2.) it will let the media focus more incisively on this vast area of government disbursements to inform the wider public; 3.) it will encourage constructive comments and alarms from the citizenry; and 4.) it will stimulate legal and economic research by scholars interested in broader policy and structural topics related to government procurement, transfers, subsidies and giveaways. For instance, how to use federal buying dollars to advance other national goals such as energy efficiency, recycling, safety, health and innovation.

Thank you for your time,
Patrick Lewis
3633 Bandera Ranch Rd
Roanoke TX 76262

N 2003- # 1-2



"Robert Cotner"
<bcotner@thegrid.net>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Open the Window on Government Contracts

07/17/2003 11:28 PM

Re: Notice 2003-NO1

OMB asked the General Services Administration (GSA) to place a notice and request for comments in the Federal Register (June 6, 2003) on a proposed pilot project "to begin making Federal contracts available to the general public on the worldwide web...to further the Administration's global vision of a citizen-centric E-Government."

I am very anxious to see Open Windows on Government Contracts come into being. Seems reasonable in a democratic society, doesn't it?

Yours truly,
Robert E. Cotner
P.O. Box 933
Grover Beach, Ca., 93483

N-2003-#1-3



"Robbie McGrath"
<robbiemc@optonline.
net>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Government Contracts

07/17/2003 11:47 PM

Sirs:

What an absolutely great idea of making government contracts available to the public, on line.

I urge you to do all that you can to make the transactions of our (my) government available, so that we (I) can see where our (my) money is going and what it is doing.

Thanks for your help in letting people see what is happening,

Francis McGrath

N2003#1-4



thetugger5@aol.com

07/18/2003 10:04 AM

To: Notice.2003-NO1@gsa.gov

cc:

Subject: Access to Government Contracts

I am writing to pledge that, as a citizen of the United States of America, I am fully in favor of having public access to government contracts. I urge the GSA to respond to this project and help ensure that these contracts are fully available (within reason) to the public. Thank you.

Sincerely,

Jon N Erlichman

N/2003-#1-5



"JOSEPH ESPOSITO"
<mondoltd@nac.net>

07/17/2003 02:47 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Taxpayer comment

Dear Sirs,

I presume we have an, "open government", and this would be a great vehicle for the president and his party to squash some of his critical reviews like the Haliburten issue.

An informed public is always the best!

N 2003 # 1-6



"Craig Shapiro"
<giarcubs@hotmail.co
m>

To: Notice.2003-NO1@gsa.gov
cc:
Subject:

07/17/2003 12:27 PM

This is an excellent idea!!!!!!!

This could be the beginning of the biggest window-opening on what government and corporations do in Washington in modern U.S. history.

Many of these agreements are closed door operations between government officials and the often close-knit vendor community. Government lawyers negotiating these contracts do not often drive strong bargains for taxpayers, especially if they are pressured from the politicians above them or they intend to work in these industries after they leave public service.

Please post them online!!!!!!!!!!!!

Add photos to your messages with MSN 8. Get 2 months FREE*.
<http://join.msn.com/?page=features/featuredemail>



"C. Esq."
<ceap@comcast.net>
07/17/2003 04:30 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: project to make Federal contracts available on web

11 2003 # 1-7

REF: <http://www.nader.org/interest/071603.html>

I am writing to add my voice to the large numbers of people who like to see that at least the essential information about all government contracts to private companies are available on the web. This will be a step in the right direction.

In absence of proper citizen oversight, a certain level of abuse can certainly be expected because it becomes an un-checked system. Government officials stop working for the best interest of the taxpayer when they give in to political pressures from inside their agencies, enticement from outside "private" industry groups, or outright favorable offers from companies.

Kamran Jazayeri.
14545 Oak St
Saratoga, CA 95070

11 2003#1-8



"Matt Young"
<young375@comcast.
net>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Yes, do publish government contracts

07/17/2003 04:36 PM

On the web, all of them, large and small.

Matt Young

11 2003-#1-9



KeithGJohns@aol.com

07/31/2003 10:47 AM

To: Notice.2003-NO1@gsa.gov.
cc: (bcc: Notice.2003-no1)
Subject: (no subject)

I encourage, per Notice 2003-NO1, the appropriate agency/s to post as much information as possible regarding *bidders* contracts and awards on the internet for all Americans to review. This would make it more possible to factually discuss matters of importance with our congressmen.

n 2003-#1-10



"Jon Brown"
<dogen@mindspring.com>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Support for online govt contracts

07/17/2003 07:35 PM

Hello,

I'm writing to express strong support for the proposed placement of government contracts online. I very much agree with the following reasons for doing so:

1. It will enhance competitive bidding and give taxpayers both savings and higher quality performances.
2. It will let the media focus more incisively on this vast area of government disbursements to inform the wider public.
3. It will encourage constructive comments and alarms from the citizenry.
4. It will stimulate legal and economic research by scholars interested in broader policy and structural topics related to government procurement, transfers, subsidies and giveaways. For instance, how to use federal buying dollars to advance other national goals such as energy efficiency, recycling, safety, health and innovation.

I look forward to the day this far-sighted proposal becomes an online reality.

Best,
Jon Brown
NYC



"Jessica Leppanen"
<jesslepp@new.rr.com
>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Contracts published on the web

N 2003-#1-11

07/17/2003 08:36 PM

Please do post on the web large government contracts, as requested by Ralph Nader. I think this would be a great way of taxpayers to know how their money is spend, and for smaller, unsavvy corporations to learn "what it takes" to land government contracts. It seems in keeping with open records laws. I hope you follow through. We'll be watching.

Jessica Leppanen
609 Hansen Street
Neenah, WI 54956

11/2003 #1-12



"Chris Younken"
<cymusic@adelphia.net>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Open the Window on Government Contracts

07/17/2003 08:36 PM

To Whom It May Concern:

I think the idea of putting government contracts out on the web is an excellent idea whose time has come.

It should save taxpayer huge amounts of money and also be a natural watchdog allowing tax payers to see who is actually getting our trillions of tax dollars.

Sincerely,
Chris Younken

N2003 # 1-13



Tzena
<tbell@barnesconti.co
m>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: A "Yes" vote on the pilot project to make available Federal Contracts,
etc. on the web

07/17/2003 01:38 PM
Please respond to tbell

Dear General Services Administration,
The vision of a citizen-centric E-Government is an exciting new way to
allow the citizens to access the important information they need to
contribute to the betterment of this democracy.
The proposed pilot project to make Federal contracts available on the
web could be the beginning of a great new highway, a two way highway
that is, and this open window should let a blast of fresh air and
sunlight in on the workings of our government who act on the behalf of
we the people, and our money.
Please keep me informed as to when the pilot will begin. I look forward
to it.
Thank you.
Kind Regards,
Tzena

--

Tzena Bell, Office Manager
Barnes & Conti Associates, Inc. "Learning for the Future"
tbell@barnesconti.com --<http://www.barnesconti.com>
800.835.0911 Ext.120 -- Fax 510.644.2101

72003# 1-14



mmcgui2
<mmcgui2@umbc.edu
>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Government contracts

07/17/2003 08:58 PM

To whom it may concern,

As a US citizen interested in Government activities, contracts and common good, I encourage you to publish the contracts that the US government signs with private industry on a web site.

If there is anything unclear about this, please let me know.

Thank you,

Mike McGuire
3129 Keswick Rd
Baltimore MD 21211



"Daniel J. Guilfoil"
<guilfoil@wisc.edu>

07/17/2003 09:00 PM

To: notice.2003-no1@gsa.gov
cc:
Subject: government contracts

72003#1-15

Published on Thursday, July 17, 2003 by CommonDreams.org
Open the Window on Government Contracts
by Ralph Nader

Contracting out what the Federal government does and what government needs is a large part of our economy. The former includes letting corporations perform more military and intelligence functions; while the latter has included buying supplies like fuel, paper, food, medicines and vehicles. Taken together, they amount to spending trillions of dollars over the past decade - your tax dollars.

The Bush administration seeks to go further by proposing to contract out the work of nearly 450,000 civil servants in various agencies and departments. Sometimes even the businesses on the receiving end of this "privatization" are a bit shocked.

A few years ago, a weapons company official asked incredulously about the Department of Defense's acquisition reform program giving the munitions industry the power to develop its own testing methods in order to determine whether Pentagon-purchased weapons are in compliance with specifications.

All these procurements and "outsourcing" involve written contracts sometimes hundreds of pages long. It is not easy, to put it mildly, for citizens to get copies of these contracts. Two of our staffers during the month of May 1999 tried to obtain copies of 81 agreements with companies that the Washington Post reported had received federal government contracts. They called both the businesses and the government agencies that signed the contracts. In no cases were they able to obtain copies of contracts from the companies. None of the federal agencies voluntarily provided copies, prompting our associates that they file a request under the Freedom of Information Act, which could take many months to process.

In January 2000 we sent a letter to President Clinton asking his Administration to place government contracts above a certain minimum dollar amount on the web.

These agreements would include, for example, leases for mineral rights from the public lands, research grants, government-industry cooperative agreements, joint ventures for the development of energy efficient cars, consulting contracts, agreements to dispose of nuclear wastes, concession contracts for national parks, licenses to government-owned patents, licenses to use the public spectrum for broadcasting and telecommunications services, agreements with firms that do security clearances for federal agencies, bank bailouts, loan guarantee agreements and many more. To our surprise, Bill Clinton personally wrote back saying it was an intriguing proposal and that he was sending it over to the Office of Management and

41 2003#1-15

Budget (OMB) for review. We never heard from OMB.

With the advent of George W. Bush, we contacted the new head of OMB, Mitch Daniels. We presented the reasons for putting these documents online: 1.) it will enhance competitive bidding and give taxpayers both savings and higher quality performances; 2.) it will let the media focus more incisively on this vast area of government disbursements to inform the wider public; 3.) it will encourage constructive comments and alarms from the citizenry; and 4.) it will stimulate legal and economic research by scholars interested in broader policy and structural topics related to government procurement, transfers, subsidies and giveaways. For instance, how to use federal buying dollars to advance other national goals such as energy efficiency, recycling, safety, health and innovation.

Many of these agreements are closed door operations between government officials and the often close-knit vendor community. Government lawyers negotiating these contracts do not often drive strong bargains for taxpayers, especially if they are pressured from the politicians above them or they intend to work in these industries after they leave public service.

OMB's Mr. Daniels and his associates thought putting these contracts, grants, leases subsidies and so forth on the government's web sites was a good idea. Any sensitive information could be redacted. Many federal agencies already have internal systems for managing contracts in electronic formats.

OMB asked the General Services Administration (GSA) to place a notice and request for comments in the Federal Register (June 6, 2003) on a proposed pilot project "to begin making Federal contracts available to the general public on the worldwide web...to further the Administration's global vision of a citizen-centric E-Government."

This could be the beginning of the biggest window-opening on what government and corporations do in Washington in modern U.S. history. Unless, the vendor lobby squashes GSA and OMB. So in small or large ways, Uncle Sam needs to hear from you, the people. You can send written comments to General Services Administration, 1800 F Street, NW, Room 4035, Washington, DC, 20405 or electronically file by emailing your comments to Notice.2003-NO1@gsa.gov.

daniel j guilfoil

5306 tonyawatha tr
monona, wi 53716
608 221 8782

112003#1-16



"jason meade"
<jasonmeade@juno.co
m>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: federal contracts on the internet

07/18/2003 07:50 PM

Dear General Services Administration,

I have just been reading about this proposal to post the text of government contracts on the Internet. This sounds like a good idea to me and I strongly urge you to put it in place as soon as possible.

Thanks for your time.

Yours,
Jason Meade
755 Center St
Hanover, MA 02339

Recordaremos
Matthew 7:1-5
Surah 5:32
<http://www.geocities.com/jasonmeade3000/>
http://www.cafeshops.com/jm_store

cn 2003 A1-17



"Clyde Nu"

<ctnar@sbcglobal.net>

To: Notice.2003-NO1@gsa.gov

cc:

Subject: Internet disclosure of large government contracts

07/18/2003 08:08 PM

Dear Sirs:

I am sending this E-mail to show my support for Ralph Nader's idea of posting the wording of all large government contracts on the internet.

While I probably would have trouble deciphering their meaning, I am sure that the act of disclosure would be an incentive to excellence by the authors and signers of those contracts.

Sincerely,

Clyde Noe

2003#1-18



"Susan Helmick"
<endives@earthlink.net>
t>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Posting contracts

07/18/2003 10:46 PM

I would like to see government contracts posted on the web for all to see.

Susan Helmick
305 San Vicente Blvd. #312
Santa Monica, CA 90402

7/2003 #1-19



"margaret midling"
<mmidling@pacbell.net>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Opening the Window on Gov't Contracts

07/18/2003 01:02 AM

The idea of having open contracts is a very exciting and plausible one. We need more open windows in Washington if we are truly going to be a democracy run by the people.

Recently, I checked out groups such as the Carlyle Group, (Bush Sr. is an advisor) and other groups and companies who are doing business with the Government. To my chagrin, several companies that were being used by the current administration had previously gone bankrupt, (Chapter 11 or 13), and then - within months - had reorganized, and become a supplier to the U.S. Defense Department or some other branch of President Bush' government.

I wondered why, if these companies had been so poorly run, our government was using them?

If we had an open contract law, our government would be free to hire the best, rather than using companies that must have been failures to begin with.

Here's to a lot less secrecy! Maybe we can get our country back on a decent economic footing!

N2003 #1-20



"Leslie Howard
Strunk"
<lhstrunk@earthlink.net>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: place gov. contracts on line

07/18/2003 01:40 AM

To quote Ralph Nader "...the reasons for putting these documents online: 1.) it will enhance competitive bidding and give taxpayers both savings and higher quality performances; 2.) it will let the media focus more incisively on this vast area of government disbursements to inform the wider public; 3.) it will encourage constructive comments and alarms from the citizenry; and 4.) it will stimulate legal and economic research by scholars interested in broader policy and structural topics related to government procurement, transfers, subsidies and giveaways. For instance, how to use federal buying dollars to advance other national goals such as energy efficiency, recycling, safety, health and innovation."

Please put these documents online so that the public can view them.

Thank you.
Leslie Strunk
Burbank, CA 91501-2978
818-566-4298

112003-#1-21



"Monroy, Gabe"
<Gabe_Monroy@intuit.
com>

To: "Notice.2003-NO1@gsa.gov" <Notice.2003-NO1@gsa.gov>
cc:
Subject: open the window

07/18/2003 01:56 AM

To Whom It May Concern,

I'm writing you to express my support for a new initiative to publicize government contracts over the web. There are many reasons this makes sense for the American people:

- 1.) It will enhance competitive bidding and give taxpayers both savings and higher quality performances.
- 2.) It will let the media focus more incisively on this vast area of government disbursements to inform the wider public.
- 3.) It will encourage constructive comments and alarms from the citizenry
- 4.) It will stimulate legal and economic research by scholars interested in broader policy and structural topics related to government procurement, transfers, subsidies and giveaways.

I realize that the vendor lobby may be against such an action as they are the ones who gain from closed-door negotiations, but this matter is too important to the future of our nation for us to accomodate the demands of greedy corporations looking to squeeze every possible cent out of the US taxpayer.

I hope you agree that transparency at all levels of government is the way forward. Please join me in supporting this noble cause.

Thanks for your time,

Gabe Monroy, MCSE, CISSP
Advanced Technology Support Engineer
Intuit Eclipse - Distribution Management Solutions
5340 Airport Rd. Boulder, CO 80301
303.938.8801 x1158
<http://eclipse.intuit.com>

N2003 # 1-22



"mindy stone"
<mindystone@yahoo.com>

To: Notice.2003-NO1@gsa.gov
CC:
Subject: Posting Contracts for Public's View

07/18/2003 03:05 AM

To Whom It May Concern,

I am writing to ask that you put on your website the contracts that the government engages with private businesses. I would very much like to be able to see how taxpayer money is spent and to make sure costs are in line and not being wasted. In a time when our country is experiencing HUGE deficits it is important for american citizens to know how their money is being spent.

I am very interested in knowing about costs to clean up nuclear waste sites in particular. I am completely opposed to nuclear energy and I would like to know how much the american public is spending to clean up corporations toxic residuals.

Sincerely,

Mindy Stone
1956 19 Ave.
Vero Beach, FL 32960

N2003- # 1-23



"Alan Benesi"
<abenesi@ceinetworks
.com>

To: Notice.2003-NO1@gsa.gov
CC:
Subject: Federal contracts on the web

07/18/2003 07:40 AM

Gentlemen and Ladies:

I urge you to begin making Federal contracts available to the general public on the worldwide web...to further the Administration's global vision of a citizen-centric E-Government.

Sincerely,

Alan Benesi

N2003-# 1-24



"Babi Hammond"
<babih@sas.upenn.ed
u>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Make Govt Contracts Public

07/18/2003 08:17 AM

I am glad to hear that the CMB and GSA are considering making government contracts available to the public via the internet. I heartily support the proposed pilot project and I hope the GSA moves swiftly to make it standard policy to post contracts on the web.

Babi Hammond
University of Pennsylvania

N 2003 # 1-25



"Tim Coon"

<timothy.coon@po.state.ct.us>

To: Notice.2003-NO1@gsa.gov

cc:

Subject: Electronic Posting of Government Contracts

07/18/2003 08:49 AM

Dear GSA/OMB Person,

I want to add my unqualified support for the proposal to place all US government contracts on the Web. This would be a great boon to the public at large, and would allow much needed sunshine into a dark (and secretive) place. This can only be a good thing.

Sincerely,
Timothy P. Coon



"Thaddeus Owen"
<owentd@yahoo.com>

07/18/2003 10:07 AM

To: Notice.2003-NO1@gsa.gov

cc:

Subject: Federal contracts available to the general public on the worldwide web

Dear GSA Representative:

I would like to voice my show of support for putting federal contracts onto the WWW for general public to view. I believe this is a welcome extension of our democratic society and should be made available for public view.

Thaddeus Owen

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1-2003-10-26

N2003 #1-27



Tony
<reggio33313@yahoo.
com>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Fedral Contract disclosures

07/18/2003 10:17 AM

To Whom It May Concern,

I have read that there is a proposal by the OMB to the GSA for a request for comments on a proposed pilot project to make information regarding Federal contracts available to the general public on the worldwide web.

As a tax payer, I feel that I should be allowed to learn which corporations/companies are awarded Federal contracts, the nature of those contracts, cost and the criteria used to award such contracts.

Please let me know how I can follow this issue and its outcome.

Sincerely,
Anthony F. Sciarrone

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172003#1-28



"Richard Johnson"
<theskillspool@dslextr
eme.com>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: YES!

07/18/2003 10:46 AM

This is to post my comment in enthusiastic support for this proposal advancing "citizen-centric E-Government."

Richard Johnson
(818) 708-7283

N2003#1-29



"Ludlow, Scott"
<ludlows@dailycamera
.com>

To: "Notice.2003-NO1@gsa.gov" <Notice.2003-NO1@gsa.gov>
cc:
Subject: Open Records for Contracts

07/18/2003 11:32 AM

To Whom It May Concern,

The listing of government contracts online will serve the taxpayers of this country in many ways. It would be a fair and advantageous policy and further the transparency of our democracy. I strongly favor such a listing.

Scott Ludlow
818 S Terry St. #1
Longmont, CO 80501

12003#1-30



"Ben Kreider"
<bfkreider@yahoo.com
>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: posting govt. contracts on the web

07/18/2003 11:49 AM

Greetings,

I believe that in a democracy the people are controlled by limiting the information they have access to. That practice can not continue indefinitely without increasing apathy toward government, thus weakening our country as a whole. There is much information today that is being wrongfully kept from the citizens. I agree with Ralph Nader that government contracts above a certain amount should be posted on the web and I am excited to here that your agency has the ability to initiate this step. I think it will help our economy, keep contracts honest and help renew people's sense of civic responsibility. For the good of the country, let's use the available technology to keep people informed about where their money is going.

Sincerely,
Ben Kreider

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2003 #1-31



"Tomlinson, Matt"
<Matt_Tomlinson@cre
stone.com>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Federal Contracts made public

07/18/2003 12:18 PM

As a concerned citizen of this country, I would like to submit my written comments for consideration with regard to making all Federal contracts awarded public information available on the internet.

First, as our Constitution says, this is a democratic government for the people and by the people. The government is a public entity that serves the citizens of this country.

Therefore, when our public tax dollars are spent on projects that require contractors, the details of those contracts should be public information that is easily accessible by any citizen.

I would like for the GSA and OMB to take the necessary steps to put these contracts, grants, leases subsidies and so forth on the government's web sites.

This can do nothing but keep our public well-informed. I believe that the public scrutiny into how billions are spent can only lead to a more competitive bidding process and therefore reduced costs for the taxpayers.

Yours truly,

Matt Tomlinson

2003#1-32



"Sam Evans"
<sbevans@hotmail.co
m>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Making Important Government Contracts Transparent

07/18/2003 12:39 PM

I am in favor of making as much government information as possible available to the American public. Especially information involving the distribution of my tax dollars. Given the current extreme lack of transparency in the issuance of government contracts to the private sector, I believe it is essential to the American public that these contracts be made available for public scrutiny. I think making them available online would also avoid creating a significant financial burden and would be preferred.

Respectfully,

Sam Evans

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<http://join.msn.com/?page=features/junkmail>

2003 #1-33



"David Coles"
<davidcoles00@hotmail.com>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: making contract info public

07/18/2003 01:02 PM

"to begin making Federal contracts available to the general public on the worldwide web...to further the Administration's global vision of a citizen-centric E-Government."

YES! Making such information readily available to the public will strengthen our democracy immeasurably. Please implement such programs, as advocated by citizen groups.

The new MSN 8: smart spam protection and 2 months FREE*

2003 #1-34



"Christine Rack"
<rack@unm.edu>

07/18/2003 01:30 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: I support putting government contracts on a website

Dear Folks-
this is a really good idea. I hope you will do it.
Chistine Rack
1604 Silver SE
Albuquerque NM 87106

N 2003 #1-35



WhalleyB@pinnaclefoodscorp.com

07/18/2003 01:51 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Notice.2003-NO1@gsa.gov

To Whom it May Concern:

I am writing today to express my support for the proposed pilot project to begin making Federal contracts available to the general public on the worldwide web...to further the Administration's global vision of a citizen-centric E-Government. I feel this program would provide increased transparency into the disbursement of the American tax payers' dollars, and would help to reverse an overall trend in federal accountability (or lack thereof) to the American public at large. Thank you in advance for your attention in this matter.

Sincerely,

Brenden Whalley

25 S Church Road #51

Maple Shade, NJ 08052-3057

whalleyb@pinnaclefoodscorp.com

7203#1-36



"Lynn Landes"
<lynnlandes@earthlink
.net>

07/18/2003 02:05 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Offshore Company Captures Online Military Vote

Offshore Company Captures Online Military Vote

by Lynn Landes 7/16/03

Last year, while President Bush marshaled U.S. forces for the invasion of Iraq, the patriots at the Department of Defense awarded the contract for a new online voting system for the military... to an offshore company. <?XML:NAMESPACE PREFIX = O />

It gets worse.

Secure Electronic Registration and Voting Experiment (SERVE) is the system and Accenture (formerly Andersen Consulting of Enron bankruptcy fame) is the company. And although Accenture has not been officially implicated in the Enron scandal, they have created a reputation of their own that is already raising eyebrows.

This is hot off the newswire -- 7/15/03 "NEW YORK (CBS.MW) -- Accenture Ltd., the former Andersen Consulting, disclosed Tuesday that it might have violated the U.S. Foreign Corrupt Practices Act. Chairman and CEO Joe Forehand, on an earnings call with analysts and reporters Tuesday, said the consulting firm's Middle East operations could be in non-compliance with the Act, which prohibits the bribery of foreign government officials by U.S. persons."

The Canada-based Polaris Institute published a scathing report on Accenture, saying, "Accenture's efforts in government outsourcing have often been very expensive and/or of poor quality. There is good reason to question Accenture's track record in outsourcing of government services."

Accenture is the leading offshore beneficiary of government contracts whose main business is the privatization of government services, according to Lee Drutman of Citizen Works, a non-profit founded by Ralph Nader. Accenture has a troubling track record, a close business relationship with Dick Cheney's Halliburton, and 2500 partners - more than half are not U.S. citizens.

Since 2001 Accenture and Election.com have been strategic partners "to jointly deliver comprehensive election solutions to governments worldwide," according to their press release. Last month Accenture bought the public-sector election assets of Election.com, which suffered its own scandal this year when it was discovered that Osan Ltd, a firm of Saudi and other foreign investors, bought controlling interest in it. According to Mark Harrington of NewsDay.com, "Several shareholders of the company said they were surprised by the recent buyout and have asked for securities regulators to investigate."

Election.com has had other problems. In January 2003, during Canada's New Democratic Party leadership convention, the Canadian Broadcasting System reported, "Earl Hurd of Election.com said he believes someone used a "denial of service" program to disrupt the voting - paralyzing the central computer by bombarding it with a stream of data"...service was restored, then... "Toronto city councilor Jack Layton's victory on the first ballot surprised many, who had expected a second or even third round of voting before a leader was chosen from the pack of six candidates."

For election security experts, a strong and growing suspicion is that computer glitches or disruptions are actually vote rigging. A surprise election result should raise a red flag.

Accenture is big. It has more than 75,000 employees in 47 countries, and generated net revenues of \$11.6 billion for the fiscal year ended Aug. 31, 2002. On their Board of Directors is Steve Ballmer,

203#1-36

Microsoft's CEO and known to many as Bad Boy Ballmer for his ruthless, if not illegal, business practices. Microsoft has been sued by the federal government and several states for monopolistic business practices which were designed to destroy their competition. Massachusetts's Attorney General is still pursuing Microsoft. In March 13, 2000 Andersen Consulting (now Accenture) and Microsoft signed a "\$1 Billion Pact To Form Joint Venture and Expand Global Alliance." What's the alliance? To control voting systems around the world?

A sense of civic duty isn't high on Accenture's list of priorities. According to an article last year in TheDailyEnron.com, "Accenture is lobbying furiously on Capitol Hill to defeat a measure that would deny federal contracts to US companies that move offshore to escape US taxes. Accenture, you see, has incorporated in Bermuda. But, Accenture also holds nearly \$1 billion in government contracts in the US. The company earned nearly \$700 million last year working for Uncle Sam and - ironically - is currently under contract with the Internal Revenue Service itself to redesign its online and Internet operations."

Then there's the Accenture connection to Halliburton, vice president Dick Cheney's former employer. Halliburton is widely criticized for doing business with brutal regimes and was the subject of a SEC investigation and several lawsuits surrounding their accounting practices during and after Cheney's tenure at the helm. The Polaris Institute says that in July 2000 David Lesar succeeded Dick Cheney as Chairman and CEO of Halliburton Company. Before joining Halliburton, Lesar was employed by the Arthur Andersen, Accenture's former parent company. Polaris says, "...while defending Halliburton's accounting practices, David Lesar publicly acknowledged that Cheney knew about the firm's accounting practices..."

In an October 2001 press release, Halliburton and Accenture announced a major expansion of their longstanding relationship with the signing of an alliance between Accenture and Landmark Graphics Corporation, a wholly owned business unit of Halliburton.

And unlike the words of the U.S. military's anthem, "I'm proud to be an American", Accenture owes its allegiance to "partners" outside of the USA.

In a letter to the editor of the Austin Chronicle last year, Accenture's Director of Corporate Communications, Roxanne Taylor wrote, "When Accenture's parent company, Accenture Ltd., was first incorporated last year, the organization's 2,500 partners, more than half of whom are non-U.S. citizens, decided to incorporate in Bermuda. With thousands of partners and employees of many nationalities, it was important commercially and culturally for the organization to select a neutral location such as Bermuda for its parent company."

How very global of them.

Potentially, 6 million U.S. military and civilian voters could soon be using the military's new online voting system. According to computer voting security experts, any online system will be easy to rig by company insiders and vulnerable to attack by outsiders. Apart from that reality, does the U.S. military really want a company owned by non-U.S. citizens in charge of their vote?

Can anyone at the Pentagon spell "national security"?

Lynn Landes is a freelance journalist at EcoTalk.org. Formerly Lynn was a radio show host, a regular commentator for a BBC radio program, and environmental news reporter for DUTV in Philadelphia, PA. (215) 629-3553 / lynnlandes@earthlink.net

11 2003 #1-37



"Lydia Ball"
<lydiajball@yahoo.com
>

To: Notice.2003-NO1@gsa.gov
cc:
Subject:

07/18/2003 02:27 PM

To whom can accomplish this task,

I would like to express my support for placing government contracts available on the Internet. By doing this, 1.) it will enhance competitive bidding and give taxpayers both savings and higher quality performances; 2.) it will let the media focus more incisively on this vast area of government disbursements to inform the wider public; 3.) it will encourage constructive comments and alarms from the citizenry; and 4.) it will stimulate legal and economic research by scholars interested in broader policy and structural topics related to government procurement, transfers, subsidies and giveaways.

Thank you very much for your time and consideration on this issue.

Lydia Ball
9493 Grove Ridge Ave
Las Vegas, NV 89148

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N2003A1-38



"Mike Bryan"
<mikebryan@appalach
iafirst.org>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Putiing Government Contracts on the Internet

07/18/2003 04:09 PM

Dear GSA,

I encourage you to continue the process of putting
government contracts on the Internet. Increased
transparency will greatly benefit our nation.

Thank you.

Mike Bryan

N2003#1-39



"Enrico Trabacca"
<etrabacca@tiscalinet.
it>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Government contracts on the web

07/18/2003 05:02 PM

I support the idea of placing the content of gov. contracts on the web. I'm quite certain they'd make for very interesting reading.

best regards
enrico trabacca

N 2003#1-40



WDHD@aol.com

07/19/2003 12:02 AM

To: Notice.2003-NO1@gsa.gov

cc:

Subject: No Subject

I think it is time to begin making Federal contracts available to the general public on the worldwide web. It will encourage competitive bidding and give taxpayers savings and higher quality performances. Taxpayers are footing the bill... we have the right to know how this money is spent.

Jerry W. Nevins
Jefferson City, MO

11203#1-41



"John March"

<jmarch@wam.umd.ed
u>

To: Notice.2003-NO1@gsa.gov

cc:

Subject: online contracts

07/19/2003 11:04 AM

Hi,

I am writing to suggest that putting government contracts with the private sector online is a very good idea. Too often speculation rises that these contracts are shady, backroom deals. My own experience with them suggests that many of them are competitive, and seemingly well-reviewed. I worked for an 8a subcontractor for 2 years. Let the public view how there money is being spent. As so many in government are fond of saying, "its our money." I can think of no contractual agreement that I have ever been a party to that refused me the right to read what I was getting. So should it be with government contracts. This will help to dispell conspiracy theories (when they are incorrect), and allow for more public input into the contracting process. Who knows, perhaps some improvements could be made along the way. Best regards,

John March
Department of Chemical Engineering and
Center for Biosystems Research
University of Maryland
6142 Plant Sciences
College Park, Maryland 20742, USA
office phone: 301-405-7156
lab phone: 301-405-4255
FAX: 301-314-9075
email: jmarch@wam.umd.edu

77203#1-42



"Ronni Bene Wolfe"
<rbwolfe@ix.netcom.com>

To: notice.2003-no1@gsa.gov
cc:
Subject: Government contracts and public web scrutiny

07/19/2003 05:51 PM
Please respond to
rbwolfe

As a taxpayer I believe that all government contracts, unless involved in issues involving national security (to be determined by appropriate Congressional oversight committees and not solely but involved governmental agencies), should be made available to the public citizens by being posted on the Internet. I do not believe the unelected officials of the Department of Homeland Security should be the sole arbiter on which contracts should be subject to public view.

This country has too long been governed by incestuous relationships between lobbyists, corporations, and the governmental officials (elected and appointed), who often change employment between the organization they had governmental responsibility to peruse for legal responsibilities, and the industries who welcome these people with influential "clout" in WA, DC.

It is time we citizens took back our clout and our voices, and regain input and public scrutiny into the workings of our government.

Ronni Wolfe
ladyronni@ix.netcom.com

172003#1-43



"Jeff Hay"
<jakehay@hotmail.com
>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Government Contracts Posted on Web

07/19/2003 07:36 PM

To Whom It May Concern,

We would like to see government contracts posted on the Web. This would bring greater transparency to the process of contracts and allow for greater public scrutiny.

Thank you,

Jeff and Karen Hay
370 Ulu Paina B
Kailua, Hawaii 96734

Download MSN Messenger - talk to family and friends overseas!

N20341-44



Seatlerik@aol.com

07/20/2003 01:42 AM

To: Notice.2003-NO1@gsa.gov

cc:

Subject: Contract Information on the Internet

I wholeheartedly support transparency in federal contracting by means of publishing said documents on the internet, where they can be easily accessed. The information age is going to result in near perfect transparency in all aspects of government in the not-so-distant future, and it would be in everybody's best interest if the Federal government cooperated willingly. It will reflect better on your dedication to the ideals of competitiveness, honesty, and a government "of the people, and for the people". Thank You

Erik Shepherd

Monroe, WA

N 203 #1 - 45



Curtis
<ecurtist@swbell.net>

07/20/2003 10:08 AM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Open the window on governments

I am writing to state that I believe the government should be transparent in all aspects possible. I think that the proposal by Public Citizen is a good step in the process. I support governmnet being open to all people.

Curtis Tromm
1315 Post Office St.
Galveston, Texas 77550

N 2003#1-46

Re: Notice 2003-M01

I am in favor of the project that would require federal agencies and departments to post their "billions" of dollars worth of contracts on the internet for public review.

Also there should be alternate sources for this info for those of us who do not have computers.

Mrs. C. Pollock

N2003-#1-47



jlb6655@att.net

07/20/2003 10:44 AM

To: Notice.2003-NO1@gsa.gov
cc: jmarch@wam.umd.edu
Subject:

Americans need to have their faith in Wash. D.C. restored. One easy way to help accomplish this is to put government contracts on-line. Contracts should not be negotiated in secret for the benefit of the special interests. This sort of arrangement has gone on far too long and is intensifying during the present administration. If Americans cannot trust their government, how is America better than some sleazy dictatorship and what is the future of the great hope for the world that democracy represents?

Jane Burrough
6655 W. Edna Ave.
Las Vegas, NV 89146

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Message: 1 of 24 < Previous | Next >

172003-#1-48



dayonaps03@totalise.c
o.uk

07/20/2003 01:51 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Asap

Dr Tunde Oyinbo,
dayonaps4@aol.com
Tel: 31 627 565 810

Dear Sir,

REQUEST FOR YOUR UNRESERVED ASSISTANCE

This letter may come to you as a surprise but it was born out of my sincere desire to share a mutual business relationship with you. First, your strictest confidence in this transaction is highly solicited. This is by virtue of its nature as being utterly confidential and top secret.

I am a top government official with a statutory corporation and member of an adhoc committee set up by the Federal Government of Nigeria to review contract awarded by past administration. In the course of identifying, scrutinising and recommending for the payment of all valid contract executed, we discovered a huge sum of money amounting to USD41.5M (Forty One Million five Hundred Thousand US Dollars) on grossly over invoiced contract already awarded and executed for the Nigerian National Petroleum Corporation. Having cleaned the AUGERAN STABLE we intend to transfer the balance of USD41.5M presently floating in our apex bank of Nigeria to our own benefit and advantage. However, we request for your unwavering assistance in this regard because as civil servants we are prohibited under the civil service code of conduct bureau from operating a foreign account or running a foreign company unless after retirement. In this vain we want you to front for us as partner to enable us lodge the funds speedily into your account.

Bear in mind that no risk is attached to this project and all logistics are in place and modalities worked out for the smooth conclusion within a stipulated time. This is in accordance with the fact that you must never betray the trust already reposed on you. We have decided to compensate you with 30% of the total sum for your support, 60% for us while 10% for miscellaneous expenses (local and international). Please, provide your confidential phone and fax number to enable me contact you for further discussion on this matter.

Please advise in your return e-mail if any time is confidential enough to call you. Looking forward to hearing from you.

Best regards,
Dr. Tunde O. Oyinbo
dayonaps4@aol.com

N 2003-#1-49



"Ken Hill"

<kwhill@ginanken.com
>

To: Notice.2003-NO1@gsa.gov

cc:

Subject: Federal Contracts available on-line

07/20/2003 03:11 PM

To Whom It May Concern,
I heartily support the OMB's recommendation that federal contracts be available online. Having the actual terms of these contracts available will greatly improve the clarity and efficiency of our government operations. As this is in line with the stated goals of the administration, "to begin making Federal contracts available to the general public on the worldwide web...to further the Administration's global vision of a citizen-centric E-Government," I see no reason why this proposal should not be implemented forthwith.

Kenneth W. Hill
518 Gaynfair Terrace
Arroyo Grande, CA 93420

n 2003#1-50



"Alex Green"
<agreen@mum.edu>

07/20/2003 10:11 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Electronic notification of US Government contracts

Dear Sirs,

I am very pleased to see the following development within the OMB and GSA. which I have copied to you taken in quotes from an article I recently read. "OMB's Mr. Daniels and his associates thought putting these contracts, grants, leases subsidies and so forth on the government's web sites was a good idea. Any sensitive information could be redacted. Many federal agencies already have internal systems for managing contracts in electronic formats. "

OMB asked the General Services Administration (GSA) to place a notice and request for comments in the Federal Register (June 6, 2003) on a proposed pilot project "to begin making Federal contracts available to the general public on the worldwide web...to further the Administration's global vision of a citizen-centric E-Government."

Thank you

412003 #1-51



"Michael Casto"
<macasto@msn.com>

07/20/2003 11:50 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Federal contracts pilot project

My name is Adam Casto, of Charleston, WV. I want to add my voice of approval to the concept of a pilot project for making federal contracts available for review online by the public. Too many billions. perhaps trillions, of my and millions of other taxpayer's dollars are going to too many private companies that do not deliver as they promised. The veil of secrecy **MUST** be removed from this state of affairs. I commend the OMB's Mitch Daniels for his support of this pilot project, and I urge you to implement this program. Thank you for your time and consideration of this matter.

Sincerley,
Adam Casto

712003#1-52



"A Carter"
<teach2carter@yahoo.
com>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: my 2 cents

07/21/2003 03:06 AM

Concerning the idea of placing government contracts on the web, it seems to have many positive aspects. The most obvious to me is the improvement in bidding and over-site, companies could check the web site to see current and available contracts. They could also use the information to better judge their prices and services. For over-site, many unnecessary programs would indeed be cut if they could not prove their worth to the public. It would spark citizen debate about the best use of public funds, increasing interest in the budgetary policy of the candidates they vote for.

A Concerned Citizen,
Adam Carter

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N-2003#1-53



"Greig Jeff"
<Jeff.Greig@po.state.ct.us>

07/21/2003 08:10 AM

To: "Notice.2003-NO1@gsa.gov" <Notice.2003-NO1@gsa.gov>
cc:
Subject: Government Contracts on the Web

To whom it may concern,

I am writing in strong support of the proposal by the Office of Budget Management (OMB) and General Services Administration (GSA) to make government contracts available to the general public electronically on the web. By making this information easily accessible, it will enhance competitive bidding and give taxpayers both savings and higher quality performances. It will also let the media focus more attention on the ways in which vast sums of public money are being spent and will encourage constructive comments and concerns from citizens.

Many federal agencies already have internal systems for managing contracts in electronic formats and any sensitive information could be redacted. I urge you to follow through on this important proposal.

Jeff Greig

86 Chelsea Court

Middletown, CT 06457

N-2003 #1-54



"Adam Becherer"
<Becherer@symbol.co
m>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Public disclosure of Government contracts

07/21/2003 02:38 PM

Dear Sir or Madam:

I recently read about Mr. Nader's proposal to place the terms of government contracts with private vendors on the web for purpose of public scrutiny. I support this idea and feel it would go a long way towards governmental transparency and would make the public at large feel more involved and better informed as to the workings of the federal government. I urge the OMB's Mr. Daniels to support this initiative and hope that this sensible seed of an idea finds root and blossoms in the near future. Thank you very much for your time.

Best Regards,

Adam Becherer

This email has been scanned for computer viruses.

N2003 #1-55



Jonathan
<jlmotley@chorus.net>

07/21/2003 09:52 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Make Federal contracts available to public

Dear Sirs,

As an active & concerned citizen, I ask that you support the OMB's effort & request to begin making Federal contracts available to the general public on the worldwide web. This will benefit U.S. taxpayers and the full citizenry in making our Federal procurement process more transparent and hopefully more cost-effective.

Thank you for your time & consideration,

Jonathan Motley

Madison, WI 53717

11-2003-#1-56

July 29, 03

General Services Admin.
Regulatory Secretariat
1800 F ST. NW
Room 4035
WASHINGTON, D.C. 20405

RE: NOTICE 2003-NO1

Dear Mr. QUARTÉ,

I believe the initial demo.
project mentioned above should be as
broad as possible.

I also believe that every govt.
contract should be posted on the
internet.

Good luck

R. Scott Schloth
1321 MENOR
WINTFIELD, KS.
67156

620-222-7706

1-2003 #1-57

Dear Mr. Duarte

I agree with Mark Tapcott's
Comments in Tyler Morning Telegraph
Monday, July 28, 2003 edition concerning
Notice 2003-N01.

Since we are taxpayers it
is our business to know that our
money is being spent prudently
and wisely. I'm fed up with
helping to pay for hundred -- or
even thousand plus dollar toilet
seats -- and the like.

yours truly,

H Duane Malone

H. DUANE MALONE
807 N. COLLEGE ST.
LINDALE, TX. 75771-2602
(903) 882-9089

NJ03-#1-58

Box 1131

2055 Grande Blvd.

July 23, 2003

General Services Administration Regulatory Secretariat
1800 F St, NW, Room 4035
Washington DC

at: Laurie Duarte

Gentlemen:

Re: Notice 2003-NO1

Please put as many contracts on the
Internet as ^{soon as} possible..

I cannot otherwise comment due to
ignorance on this matter.

Just put all contracts on the
Internet ??

Respectfully, a Taxpayer
(Mrs.) Vernelle Martin

17-2003#1-59



"Steve Coleman"
<colemast@pacbell.net>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Government Contracts on the web

07/22/2003 08:59 PM

I support placing all US Government contracts paid for with Federal/Tax-payer money, on the world wide web for all citizens to review. This will help promote equality and democracy in America.

Sincerely,
Joseph Smith,

1564 Lisa Lane
Redlands, CA 92374



"Mary Jo Brooks"
<mjb Brooks@ampublic.
com>

07/23/2003 01:42 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: YES to disclosure of government contracts on the web

N2003#1-60

I am writing to voice full support for the proposal from public interest groups to the Administration to place government contracts on the US Government's web sites so citizens and taxpayers have access to the information. This should include: leases for mineral rights from the public lands, research grants, government-industry cooperative agreements, joint ventures for the development of energy efficient cars, consulting contracts, agreements to dispose of nuclear wastes, concession contracts for national parks, licenses to government-owned patents, licenses to use the public spectrum for broadcasting and telecommunications services, agreements with firms that do security clearances for federal agencies, bank bailouts and loan guarantee agreements.

-Mary Jo Brooks, 200 Garden Cove, Ridgeland, MS 39157 601-936-3237

72003-#1-61



EFeinman@aol.com

07/23/2003 05:52 PM

To: Notice.2003-NO1@gsa.gov

cc:

Subject: I support putting government contracts on the web

I am very much in favor of the pro-competitive impact of putting government contracts, grants, leases, subsidies and so forth on the web for all to see.

this is very important.

Ron Feinman, Esq.
One World Structured Settlement Design, LLC
Bank America Bldg, Seventh Floor
801 Main Street
Lynchburg, VA 24504-1519
434-528-0696

A member of the Delta Group of Settlement Companies

Registered Representative of and securities offered through QA3 Financial Corp., Member NASD/SIPC, One Valmont Plaza, 4th Floor, Omaha, NE 68154 (402) 964-3702)

N2003#1-62



"Verchinski, Paul
(TPE)"
<Paul.Verchinski@fta.
dot.gov>

To: "Notice.2003-NO1@gsa.gov" <Notice.2003-NO1@gsa.gov>
cc:
Subject: FR Notice

07/24/2003 07:35 AM

I think that this is a great idea. FR Notice dated June 6

Proposed pilot project "to begin making Federal contracts available to the general public on the worldwide web...to further the Administration's global vision of a citizen-centric E-Government."

Chief, Planning Oversight Division,
Office of Planning, TPL-11
Federal Transit Administration
NASSIF Bldg. Room 9413
Washington, DC 20590
Phone: 202/366-1626
FAX: 202/493-2478
Email: paul.verchinski@fta.dot.gov

17203#1-63



"Dearborn, Paul"
<Paul.Dearborn@merri
mack.edu>

To: "'Notice.2003-NO1@gsa.gov'" <Notice.2003-NO1@gsa.gov>
cc:
Subject: Government Contracts

07/24/2003 09:34 AM

To Whom It May Concern;

I think the proposal put forth by the Ralph Nader organization for placing documents related to large government contracts on the web where they are available for review and comment by the public would be an important step toward keeping taxpayers informed about how government is spending their money. Please make these documents available on the web. Thank-You for your consideration of this matter.

Paul Dearborn
Campus Postmaster
Merrimack College
315 TURNPIKE ST
N ANDOVER MA 01845-5800
Tel. (978) 837-5000 ext. 4187

11-2003 #1-64



Rebecca.McNally@me
d.va.gov

07/24/2003 11:49 AM

To: Notice.2003-NO1@gsa.gov.
cc: cnn1914@frontiernet.net, (bcc: Notice.2003-no1)
Subject: Web Access To Gov. Contracts

I am a professional registered nurse who works within the VA health care system. I am concerned about the outsourcing of services within that system, and with the opportunity for corruption that it presents. It seems to me that giving access to Federal contracts to the general public by posting the contracts on the worldwide web would serve to limit the opportunity of some to grant contracts "behind closed doors" with partiality or kick-back rewards. Isn't this what our president wants? To increase opportunities to perform needed services while decreasing costs to the government? What better way than to open up the opportunities to everyone through this system? As a tax paying voter, I strongly urge you to listen to me and take my wishes into consideration.

Thank You,
Rebecca McNally
52 Oakland Ave.
Walden, NY, 12586

N 2003 #1-65



"Mary Phillips"
<barre.phillips@wanad
oo.fr>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: re the project to make Gov't contracts available to the public on the web

07/27/2003 11:06 AM

To Whom it may concern

Regarding the pilot project to begin making Federal contracts available to the general public on the worldwide web . I am wholly in favor of this project! The American is very poorly informed as to where their tax dollars go. When we read articles in the paper about military flashlights costing \$350 apiece, some of us are anxious to know more. This information can be made public, indeed SHOULD be made public.

Sincerely,
Mary Phillips
Sonoma, CA

72003 #1-66



"Steve khoza"
<k_steve@fastermail.com>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: SEEKING YOUR IMMEDIATE ASSISTANCE.

07/28/2003 03:27 AM
Please respond to
ksteve

Dear Friend,

I am Steve Khoza a native of Cape Town in South Africa and I am an Executive Accountant with the South African department of Mining and Natural Resources. Please accept my apology for using this medium to convey a transaction/business of this magnitude, but this is due to the confidentiality and prompt access reposed on this medium. I have decided to seek your co-operation in the execution of this deal described hereunder, for the benefit of all parties and hoping you will keep it as TOP SECRET because of the nature of the business.

Within the department of Mining and Natural Resources (where I work as a director), and with the cooperation of four other top officials, we have in our possession as overdue payment bills totaling Eighteen Million, Five Hundred Thousand US Dollars (US\$18,500,000.00) which we want to transfer abroad with the assistance and cooperation of a company/or an individual to receive the said funds, via a reliable Bank Account. Quite frankly, we are handicapped as the South African civil service laws (Code of Conduct Bureau) strongly prohibits us from owning/or operating a foreign account hence your importance in this whole transaction.

This amount (US\$18.5M) represents the balance of the total value of a contract executed on behalf of my department by a foreign contracting firm which we the officials (involved) deliberately over-invoiced. Though the actual cost have been paid to the original contractor leaving the balance in the tune of the said amount which we have in principle gotten approval to remit by Key Tested Telegraphic transfer (K.T.T.) to any foreign bank account you will provide by filing an application through the justice ministry here in South Africa for the transfer of rights and privileges of the former contractor to you.

I have the authority of my partners involved to propose that should you be willing to assist us in this transaction by way of providing the required account in receiving these funds, your share of the entire sum will be 30% amounting to US\$5.55 Million of the US\$18.5 Million, 60% amounting to US\$11.1 Million for us and 10% amounting to US\$1.85 Million will be used to settle taxation and other miscellaneous expenses in the course of transferring the funds to your account. The business itself is 100% foolproof and safe, as long as you maintain utmost secrecy and confidentiality. furthermore your area of

112003#1-66

specialization will not be a hindrance to the successful completion of this transaction. I have reposed my confidence in you and hope you will not disappoint me. Should you be willing to assist positively with a common goal, endeavor to contact me immediately through my above email address. If you are not interested, please also indicate so that it will enable me to contact other foreign partner with recommendations to carry out this deal.

I want to assure you that my colleagues and I are in position to make the payment of this claim possible provided that you can give us a very concrete assurance of the safety of our share. Please, always treat this matter with utmost confidentiality, because we will not comprehend any form of exposure as we are still in active government service. Time is of essence in this business, so kindly act fast.

I await in anticipation your fullest co-operation.

Yours Faithfully,

Steve Khoza.

N 2003 #1-67



"Thomas Gould"
<Talk2tom21@msn.co
m>

To: NOTICE.2003-No1@gsa.gov
cc:
Subject: Contract postings..

07/28/2003 11:38 AM

<?xml:namespace prefix="v" /><?xml:namespace prefix="o" />

If you are keeping ...or making a list of the people "pro/con" about posting the contracts on the internet then put me down as "pro" for posting. The Internet Contract-Posting project at OMB sounds like a great idea to me. Thanks
talk2tome21@msn.com

77 2003 #1-68



peacetous@juno.com

07/28/2003 01:18 PM

To: Notice.2003-NO1@gsa.gov

cc:

Subject: Great Idea

Dear Sirs and Madams :

It has for a long time been my notion that the Federal Gov. money
throwing wastes
about 50 cents out of every dollar they throw.

I therefore am delighted to read of some positive way to attempt to
correct that situation.
However, i have deep reservation that anything or anybody can reign in
Federal Government
misspending. But you have my wholehearted backing and my not too worthy
prayers.

It should be axiomatic that all Government Contracts be publicly
published to give equal
opportunity for contractors to offer their wishful thinking cost and
project finish date.
Check with Bostons chunnel.

May Federal officials hurry along Notice2003-NO1.

God bless all involved in this project and please start something
substantial about a FLAT TAX !!!

PEACE, BLESSINGS, GOOD FORTUNE, SUCCESS !!!!!

papa K.

N 2003 #1-69



"Dave Day"
<dday2@pacbell.net>

07/28/2003 06:17 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Notice 2003-NO1

If Government is not corrupt or wasteful there should be no problem posting all Federal contracts on the Internet. Of course the I don't have much faith in Government. Look at California where I live.

David Day
Agoura Hills, Ca

71 2003 #1-70



"Larry wise"
<larryjw2@hotmail.co
m>

To: notice.2003-no1@gsa.gov
cc:
Subject: federal spending

07/28/2003 07:43 PM

I would love to see the Govt have to put all of its contracts detail by detail on the web for all tax payers to see what there tax dollars are going towards as a way of accountability. They can ask for my records without any problem and I have pay a fee for which I am not reimbursed but there is no accountability for them.

this a great idea, a way of posting records to keep govts feet to the fire

Add photos to your e-mail with MSN 8. Get 2 months FREE*.
<http://join.msn.com/?page=features/featuredemail>

N 2003 #1-71



"Barbara Mercier"
<barbaramercier50@hotmail.com>

To: Notice.2003-NO1@gsa.gov
CC:
Subject: Notice 2003-NO1, Internet contract-posting project at OMB

07/29/2003 10:02 AM

TO: Laurie Duarte
FROM: Barbara Mercier, private citizen
Date: July 29, 2003

RE: Notice 2003-NO1, Internet Federal Contract-Posting Project at OMB.

As a voting taxpayer, I wish my government to consider and record my desire to support the above Notice to post all possible federal/government contracts on the Internet as soon as possible for public examination. I believe such action will encourage government honesty and accountability, thus saving the taxpayer millions, possibly billions of dollars annually.

Please note my support for this action.

Barbara Mercier
177 Oak Hill Baptist Road
Summerville, GA 30747

barbaramercier50@hotmail.com

The new MSN 8: smart spam protection and 2 months FREE*
<http://join.msn.com/?page=features/junkmail>

N-2003 #1-72

Sirs:

July 28, 2003

I'm writing in regard to Notice 2003-NO1, the Internet contract-auctioning project. I'm very much in favor of this idea. All public monies should face a full and very public accounting of why, when and where they were spent. It is high time that the public gets involved in how the government spends our tax dollars. It will most certainly uncover any cases of graft, corruption or ineffective use of public money.

Thank you for your time -
Respectfully,

Mrs. Barbara Westlake
22219 Fletcher Ave.
Aliso, CA 92604

11 2003 #1-73



"R HALL"

<ardeeh@worldnet.att.net>

To: Notice.2003-NO1@gsa.gov

cc:

Subject: Government contracts on the Internet

07/28/2003 06:38 PM

GSA Regulatory Secretariat ATT: Laurie Duarte

Ms. Duarte:

I feel that it is imperative that all federal departments and agencies post contracts on the Internet, for public review, and that this should be done as soon as is possible.

Renee D. Hall

11 2003 #1-74



"Doug Terpstra"
<dterps@uswest.net>

07/29/2003 07:19 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Federal contracts

We request that you begin making Federal contracts available to the general public on the worldwide web. We believe this will further the Administration's global vision of a citizen-centric E-Government. Please include information on Bechtel, Halliburton and the Carlyle (sp) Group. Thank you for furthering transparency in government.
Regards,

Doug Terpstra

17-20341-25



mimipill@netzero.net

07/29/2003 08:00 PM

To: Notice.2003-NO1@gsa.gov

cc:

Subject: Mark Tapscott's Article

I will believe it when I see it.

Reading Mark Tapscott's (of the Heritage Foundation)

article entitled "Contract Posting on Net Key Government Reform" I simply could not believe that this would come to pass.

Not with this White House and not with this congress, or for that matter, not with any other White House and/or Congress. Nevertheless, I can hope, though I don't have too many more years ahead inasmuch as this month I turn 83. Oh, how I would cherish the thought to be proven wrong.

Leonard Pill

N2003#1-76



"Roger W. Clemons"
<rwcbgc@bellsouth.net>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Notice 2003-NO1

07/29/2003 08:36 PM

Dear Sirs,

I am interested in saving some of my tax money. I also want to do my part to eliminate government waste. I vote for putting as many contracts on the Internet as possible- as soon as possible. Wayne Clemons

rwcbgc@bellsouth.net

7203 #1-77



Laurie A. Duarte

07/29/2003 04:11 PM

To: LaRhonda M. Erby-Spriggs/MVA/CO/GSA/GOV@GSA
cc:
Subject: Comment

LaRhonda,

Comment for Notice 2003-N01 - - please log.

May your day be well,

Laurie A. Duarte
Supervisor
Regulatory Secretariat
Office of Acquisition Policy
General Services Administration
202-501-4225

----- Forwarded by Laurie A. Duarte/MVA/CO/GSA/GOV on 07/29/2003 03:49 PM -----



GEMSForward@mailto:info.gov

07/28/2003 07:12 PM

To: stephanie.mcwhirter@gsa.gov
cc:
Subject: GSA Schedules/contract number

This message has been forwarded to you by the GSA E-mail Management System.

Customer Email Address: bob@worldkey.net
Date/Time: Mon, 28 Jul 2003 16:01:30 -0400
Subtracking #: 1801

Thank you for contacting the General Services Administration.

We are forwarding your message to an associate in GSA's Federal Supply Service for response.

We hope you find this information helpful. For future reference, your message ID number is NGFGGVG3WR01EWE0.

Regards,
GSA.gov Response Team

We regret that we are unable to accept replies sent to our mailbox; if you have any further questions about the government, please do not hesitate to call our National Contact Center at 1-800-FEDINFO (1-800-333-4636), Monday through Friday from 8 a.m. to 8 p.m. eastern time, or send us another message through our webform at

<http://www.gsa.gov/Portal/contact.jsp>

Text of Original Message:
Attention- Laurie Duarte:

Re: Notice 2003-N01

I do believe that making government contracts viewable

112003#1-77

for the public would result in cost savings and more honest work done.

I'm not quite sure if defense contracts would compromise a business' proprietary information but am reasonably sure that if pertinent details could be left out without affecting that, the information would assure no more \$150 toilet seats, etc.

Ideally, the contracts should be listed under categories so that the segment of the public that has specific knowledge of that type of contract, won't have to wade through lots of contracts that they wouldn't understand and therefore couldn't comment intelligently.

The question of how many contracts should be listed is difficult but perhaps all of them.

17-2003#1-78



Laurie A. Duarte

07/29/2003 04:12 PM

To: LaRhonda M. Erby-Spriggs/MVA/CO/GSA/GOV@GSA
cc:
Subject: Comment for Notice 2003-N01

LaRhonda,

Another comment for Notice 2003-N01.

May your day be well,

Laurie A. Duarte
Supervisor
Regulatory Secretariat
Office of Acquisition Policy
General Services Administration
202-501-4225

----- Forwarded by Laurie A. Duarte/MVA/CO/GSA/GOV on 07/29/2003 04:11 PM -----



"BARBARA
EDWARDS"
<bobedw@prodigy.net
>

To: laurie.duarte@gsa.gov
cc:
Subject: Notice 2003-N01

07/27/2003 08:23 PM

I was just made aware of Notice 2003-N01 in a newspaper article by Mark Tapscott of Knight/Ridder/Tribune News Service. Please put as many gov't contracts on the internet as possible and as soon as possible. Anything that can be done to expose waste and fraud in government spending and hopefully curtail "Pork Barrel" spending is critical to our country, now more than ever. We want to know where the money is going!

Barbara Edwards
Marysville, CA 95901

11-2003#1-79



TIMDURSO@aol.com

07/30/2003 09:45 AM

To: Notice.2003-NO1@gsa.gov

cc:

Subject: internet sunshine on US contracts

I support the above Notice.

This internet may evolve into something positive yet.

Betty Durso

112003-#1 - 80

29 Chiffelle Street
Bluffton, SC 29909
July 25, 2003

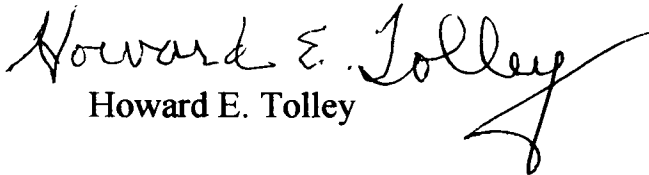
Government Services Administration
Regulatory Secretariat
1800 F Street
Washington, D.C. 20405
ATT: Laurie Duarte
Dear Ms. Duarte:

Notice 2003-NO1

In the interest of open government, increased competition among bidders, government accountability and improved government efficiency, I request that the following information with respect to all government contracts with a cost over \$100,000 be published on the Internet:

1. Copy of the contract (including total cost);
2. Total number of bids received for this project;
3. Total cost of each of the 10 lowest bids received;
4. Explanation of reasons and justification if contract was awarded to other than the lowest bidder.

Sincerely yours,


Howard E. Tolley

7/2003 #1-81

Grant W. Kuhns
2848 Winthrop Avenue
Carlsbad, California 92008
(760) 434 5747
gwkuhns@excite.com

July 24, 2003

Regulatory Secretariat, General Services Administration
1800 F St. NW, Room 4035
Washington, D.C. 20405

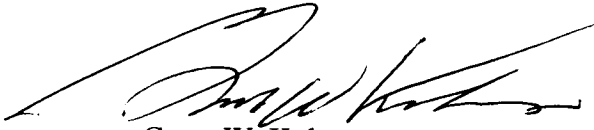
Attn: Laurie Duarte

RE: 2003-N01

Dear General Services Administration:

This is to urge the Administration to support Notice 2003-N01 to post as many federal contracts as possible on the internet, as soon as possible. The tax payers of this nation have a right to know where, and how, money from the public treasury is being spent, in all matters that do not put national security at risk.

Sincerely yours,



Grant W. Kuhns



Rolls-Royce

72003 #1-82

Rolls-Royce plc
PO Box 3, Filton, Bristol BS34 7QE, England
Telephone: +44 (0) 117 979 1234
Fax: +44 (0) 117 979 7575
www.rolls-royce.com

General Services Administration
Regulatory Secretariat (MVA)
ATTN: Ms. Laurie Duarte
Room 4035
1800 F Street, N.W.
Washington, D.C. 20405
USA

Direct dial 0117 979 7966
0117 979 7154
Direct fax
Date 4 August 2003
Notice 2003 - N01
Our ref
Your ref

Dear Ms. Duarte,

Re: Notice 2003-N01

Rolls-Royce plc hereby submits comments on the above-referenced Notice published by the General Services Administration ("GSA") in the June 6, 2003 edition of the Federal Register announcing the initiation of a pilot program by the Integrated Acquisition Environment ("IAE") program office to make Federal contracts available to the general public on the worldwide web. As we shall explain below, Rolls-Royce strongly opposes this proposal because (1) the current system is adequate; (2) the program will be disastrous from a logistical and administrative standpoint; (3) it threatens to destroy the critical balance between the public's right to know and the right of contractors to protect competitively-sensitive information; and (4) it flies in the face of Congress' desire to have Federal agencies act more like commercial business organizations.

As a preliminary matter, please be advised that this letter contains information that Rolls-Royce considers to be confidential and commercially-sensitive and, thus, subject to protection under Exemption 4 of the Freedom of Information Act ("FOIA"). Rolls-Royce therefore requests that it be given notice of any FOIA request for documents to which this letter is responsive, and an opportunity to object to any release of confidential and proprietary information contained herein.

I. Background Information

Rolls-Royce is a diverse, multinational company, which includes several U.S.-based subsidiaries, that operates in four global markets – civil aerospace, defence aerospace, marine and energy. Rolls-Royce is headquartered in the United Kingdom and manages its operations through a number of sector-oriented business units, such as civil aero engines, marine engines, industrial power systems, defence, etc. Unless otherwise noted herein, these comments reflect the views of all Rolls-Royce entities and business units, and particularly those which transact business with the United States Government ("USG").

Rolls-Royce Defence Aerospace, a United Kingdom ("U.K.")-based business unit, conducts significant business with the USG under contracts for the manufacture of military aircraft engines and

Rec'd
8/1/03

the supply of engine spare parts, and Rolls-Royce's U.S. subsidiaries transact substantial business with the Department of Defense, NASA and the Department of Energy. Rolls-Royce's Pegasus engines power the U.S. Marine Corps' AV-8 Harrier and its Adour engine powers the U.S. Navy's T-45 Goshawk trainer jet. Rolls-Royce is also a member of the team, led by Lockheed Martin, that is developing the USG's state-of-the-art Joint Strike Fighter. The Pegasus, Adour and other Rolls-Royce engines are marketed worldwide, and power the aircraft of military agencies in numerous countries, including the U.K., India, Italy, Spain, Australia and Thailand.

The aerospace global market, both civil and defence, is extremely competitive. Rolls-Royce's two major rivals in this market are U.S.-based General Electric and Pratt & Whitney. Rolls-Royce and its competitors aggressively market their engines and spare parts throughout the world, and are under constant pressure to enhance engine performance and life-cycle costs through extensive and expensive research and development ("R&D") efforts. While Rolls-Royce receives funding for its R&D efforts from government sources, including the USG, the majority of Rolls-Royce's development costs are borne by the company from profits earned on sales. For various reasons, Rolls-Royce employs different marketing and pricing strategies when contracting with the USG as compared to contracting with non-USG customers, and these different strategies have a direct bearing on Rolls-Royce's profitability, its ability to fund significant R&D activities, and its continuing competitiveness in the global aerospace market.

This background information is intended to provide some perspective on the worldwide ramifications of the IAE pilot program should it go forward. The sheer volume of purchasing that the USG does is certainly one factor that makes it an attractive customer; another important factor is that other potential customers, both government and commercial, are naturally attracted to companies who can show that the USG is a satisfied customer.

Rolls-Royce's circumstances are not unique and certainly are not limited to defence contractors. In innumerable product markets, the USG procures vastly greater quantities of items than any other single-country organization and, consequently, the USG enjoys the benefits of this power through competitive prices. Although a contractor's pricing practices are not the only type of information that ~~would be compromised under this IAE pilot program~~, pricing offers a striking example of why the program must be abandoned. Should the pricing of products to the USG become transparent to a worldwide audience, as would likely occur through the pilot program, other countries and customers will bring pressure on manufacturers to match their USG prices, which will have one of two equally-undesirable effects, namely, manufacturers will be forced to either lower their prices to non-USG customers, thereby reducing profit margins, or to increase their prices to the USG. Under the first scenario, reduced profitability means reduced R&D funding, which in the aerospace industry is critical, and quite possibly the cessation of business altogether. Under the second scenario, the USG and its taxpayers obviously will suffer, rather than benefit, from such transparency.

II. The Current System Is Adequate

The June 6 Notice states that the IAE program office will initiate this pilot "to begin making Federal contracts available to the general public on the worldwide web." According to the Notice, the Office of Management and Budget and the IAE program office seek to "promote greater transparency in Government contracting through the effective use of technology." Elsewhere in the Notice, it is noted that "several public interest groups have requested that agencies make contracts available online. These groups believe this type of transparency will facilitate constructive dialogue to promote model

contracting, improve weak procurement practices, and reduce repetitive requests under the Freedom of Information Act.” While the Notice does mention that a “limited amount” of such information is already available through other resources, it states that “Federal contracts are not routinely posted on the web.”

We believe that the information currently available actually is sufficient to meet the goals that have been listed. As the Notice acknowledges, full solicitations are available to the public, and they certainly would be an important source of information for purposes of promoting model contracts and improving weak practices. What the solicitations lack, of course, is the type of proprietary information that offerors submit in an effort to win the contract, *i.e.*, competitive pricing, cutting-edge technical proposals, and innovative approaches. Such proprietary information, which is the lifeblood of a company’s competitive strategy, often is incorporated into the contract. The current standards quite properly prohibit the release of such information. Perhaps most important, while we understand why the Government would want to reduce repetitive FOIA requests, that goal would never justify posting a contractor’s proprietary information on the web.

While Federal contracts admittedly contain a good deal of generic, non-proprietary information, they may also include contractor information that is highly confidential, proprietary and/or commercially sensitive. As indicated above, for example, a contract might contain unit pricing, critical technological details, staffing charts, names of key personnel, and internal cost information. The disclosure of such information could be very harmful to a contractor.

Generally speaking, the current mechanism for protecting such proprietary information from disclosure outside the government works well and, at a minimum, affords the submitters of such information (*i.e.*, government contractors) procedural and legal rights to make their individual cases against disclosure before a potentially harmful release occurs. Rolls-Royce does not believe that the IAE, or any other government agency, will have the resources (manpower, funding, equipment, technological capability and know-how) to provide a similar or acceptable level of protection and procedural due process as the current mechanism affords its government contractors.

The FOIA and Executive Order 12600 (“EO”) provide the foundation for the current mechanism. Unless Congress or the President directs otherwise, that mechanism should not be altered.¹ Although the FOIA is a disclosure statute, it also recognizes and delineates nine exceptions to the disclosure requirements. The fourth exception, known as Exemption 4, protects from disclosure “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.” 5 U.S.C. § 552(b)(4). The EO mandates that all agencies subject to the FOIA must establish procedures for notifying submitters of records containing confidential commercial

¹ Rolls-Royce is aware of the 1996 amendments to the FOIA, Pub.L.No. 104-231, known as the Electronic Freedom of Information Act Amendments of 1996 (“E-FOIA”), and that the House Committee Report, No. 104-795, on H.R. 3802 acknowledged the public’s increasing use of “network computers and broadly accessible data networks such as the Internet” and stated that “an underlying goal of H.R. 3802 is to encourage on-line access to Government information available under the FOIA.” Nevertheless, the E-FOIA did not eliminate or alter the existing safeguards for protecting exempt material through the notice/opportunity to object requirements in the EO and implementing regulations.

information that an FOIA request has been made for such records and affording submitters the opportunity to object to the release of confidential commercial information. Federal agencies have promulgated regulations to implement the EO's directives. See, for example, DOD's procedures at 31 C.F.R. § 286.23 and GSA's procedures at 41 C.F.R. § 105-60.405.

Federal agencies have established FOIA offices, whose officials specialize in handling FOIA requests, including notifications to submitters, consideration of their objections and decisions on the releasability of requested records. While there exist certain categories of information which can be uniformly and fairly designated as exempt or non-exempt from disclosure, in most instances a submitter's objections to the release of information is handled on a case-by-case basis. In other words, even though an agency may have released a certain type of information in government contracts on numerous prior occasions, it may withhold that same type of information when it determines that the particular submitter has made a convincing argument that competitive harm will result from the release of the information. When that occurs, either the submitter or the agency prepares a redacted version of the contract, physically deleting the proprietary information, that can be released to the FOIA requester. While perhaps not perfect, this procedural due process afforded to submitters under the current mechanism has worked fairly well in balancing the public's interest in full disclosure of government records with industry's interest in protecting confidential commercial information that is provided to the government as a requirement of doing business in the federal sector.

Although it is not clear from the Notice, we are concerned that the responsibility for this program will be concentrated in one agency. This would be a disturbing departure from the current procedures, a decentralized process under which each procuring agency is responsible for handling such requests. In addition to the FOIA offices discussed above, a procuring agency has other personnel available, such as contracting officers or technical experts, who can advise the FOIA office with respect to such matters. This is an important consideration because the people making the release determination are in most cases familiar with the subject matter or know whom to contact for advice. Such built-in institutional knowledge would be lost if all decisionmaking related to the public release of contract information were centralized in an independent office such as the IAE.

III. The Proposed Program Would Be Logistically And Administratively Overwhelming

As indicated above, the current system places the responsibility for processing FOIA requests for contract information on the shoulders of the procuring agency, which must proceed according to the regulations and legal precedent in effect. This process requires and deserves a great deal of personal deliberation, the kind of deliberation that entails the exercise of discretion. We are quite concerned that the proposed "technology-based integrated infrastructure" would tend to gut this important deliberative process, thereby stripping the process of the safeguards that currently exist. The Government personnel engaged in this important deliberative process must, in each case, sift the facts, apply the applicable law and regulations, and recognize the sometimes-subtle nuances that can exist when weighing several factors to determine whether the release of certain information would cause competitive harm. Although we certainly are impressed with the power of computer technology, we are not convinced that a software program is capable of performing such subjective analyses, particularly because so much judgment is called for in the process.

A prime example of the importance of maintaining these individual rights and safeguards is the ongoing controversy over the exempt status of contractor unit price information. Although it is



#1-82

generally accepted that the total price reflected in contracts is not protected from disclosure under Exemption 4 of the FOIA,² many government contractors, including Rolls-Royce, have taken the position that the disclosure of unit prices will cause substantial harm to their competitive positions. Over the years, the Department of Justice ("DOJ") and the Department of Defense ("DOD") have documented their positions that all unit prices are releasable and that no submitter notification is necessary before such unit price information is released to a FOIA requester.

In the wake of recent court decisions enjoining agencies from releasing unit prices and similar pricing information, thereby evidencing the courts' disagreement with the DOJ and DOD position, the DOJ issued a new advisory instructing agencies to notify submitters of unit price information of FOIA requests in order to obtain any objections to disclosure and to then conduct a thorough competitive harm analysis on a case-by-case basis. See McDonnell Douglas Corp. v. NASA, 180 F.3d 303 (D.C. Cir. 1999), reh'g en banc denied, No. 98-5251 (D.C. Cir. Oct. 6, 1999); MCI Worldcom, Inc. v. GSA, 163 F.Supp.2d 28 (D.D.C. 2001); DOJ FOIA Post, "Treatment of Unit Prices Under Exemption 4" (posted 5/29/02)(superseding FOIA Update, Vol. XVIII, No. 4, at 1, and FOIA Update, Vol. V, No. 4, at 4). In global markets, such as the aerospace market in which Rolls-Royce competes, unit pricing information is extremely commercially-sensitive because, as explained above, there are disparities – at times substantial – between prices charged to the USG and those charged to non-USG customers due in part to the USG's significant purchasing power. Disclosure of such information to a worldwide audience will cause severe competitive harm to the suppliers and manufacturers that rely on sales to USG and non-USG customers, and may well impair the USG's ability to retain competitive pricing for needed products.

Rolls-Royce questions how a web-based platform for the publication of Federal contracts, as contemplated by the IAE pilot program, can provide the necessary safeguards for protecting confidential commercial information submitted to the government by federal contractors. While the mechanics for such a program are unknown, Rolls-Royce assumes that the IAE will obtain contract data through some electronic means from thousands of agency sources. Once the contract data is captured and loaded onto its website for public dissemination, the IAE cannot simply post the contracts for worldwide public access and ignore the exempt status of certain information afforded by the FOIA and the predisclosure notification requirements mandated by the EO and implementing regulations. In fact, the June 6 Notice acknowledges these obligations by stating that "any proprietary information contained in a contract covered by the pilot would be redacted before posting."

The IAE will have to possess the resources to capture and load data from potentially millions of contracts, to notify each contract holder that its contract is to be posted on the web and give it the opportunity to raise objections, to carefully consider those objections and make a competitive harm analysis, to notify the contract holder of its decision, and to support its position in any ensuing

² Even this generally-accepted notion is not immutable. For example, a contract may call for the delivery of only one type of product, such as a particular engine spare part, and the total price will reflect the unit price of that part times the quantity specified. With knowledge of the total price and the quantity, a competitor can easily ascertain the unit price of the part. If the supplier of the spare part can make a persuasive competitive-harm argument regarding the spare part's unit price, then the "total price" and/or the quantity must be redacted from the contract before it can be released to the public.



#1-82

litigation. In the event the IAE agrees with a contractor's objections to disclosure of certain information, the IAE will need the resources and technical capability to electronically redact that information from the contract data before posting it on the web. To comply with these requirements will entail the investment of vast amounts of time, effort and money. Rolls-Royce seriously doubts that the IAE, or any agency, currently possesses the resources to successfully undertake such a huge and logistically-challenging project. The stakes are high: anything short of a successful undertaking, resulting in the disclosure of proprietary information, will cause substantial, and at times irreparable, harm to the competitive position of hundreds of contractors.

IV. The Proposed Program Is A Reversal Of The Government's Commitment To Adopt More Commercial Business Practices

The proposed program flies directly in the face of the significant efforts, at the prodding of Congress, to have Government agencies adopt more commercial-like business practices. Those practices have their origins in the Federal Acquisition Streamlining Act of 1994 ("FASA") and the Federal Acquisition Reform Act of 1995 ("FARA"). Since the passage of those two laws, the world of Government contracting has changed dramatically. Rolls-Royce has been in full agreement with this trend.

In our free-enterprise system, where even the Federal Acquisition Regulation recognizes that profit is an appropriate goal, commercial entities develop partnerships with their suppliers as they pursue goals that will benefit both sides; they are careful to protect both their own proprietary information and that of their suppliers; and they do not release copies of their contracts to persons outside their company. These principles are the foundation for a long-term business relationship. While it is true that the presence of taxpayers' dollars is a crucial distinction between commercial business transactions and Government contracts, the current system strikes the appropriate balance between the taxpayers' right to know and the contractor's right to run a profitable business.

If the proposed program is adopted, it will have the effect of driving away those business concerns that have entered the Government marketplace over the past nine years, and it will repel any other commercial entities from entering the marketplace. This is not what Congress intended, and it could strike a fatal blow to the progress that has been made since FASA and FARA were enacted.

V. Notice Request For Guidance On Implementation

The Notice specifically requested comments on "scope and availability" questions and "guidance" with respect to how the proposed posting could be accomplished in a way that is consistent with applicable laws and regulations. We do not believe this program should be implemented in any way. As we have stated, the program will create a logistical and administrative nightmare for the agency tasked with its implementation and it will severely undermine, if not entirely eliminate, the procedural and legal protections already in place. Moreover, a posting contrary to a contractor's claim of confidentiality could expose a federal employee to criminal sanctions under 18 U.S.C. § 1905.

The proposed program must be abandoned without further comment. Should the GSA, however, decide to proceed with this ill-advised project, Rolls-Royce urges the GSA to refrain from publishing any final rule until it has published another proposed rule for public comment that details the mechanism and procedures to be used in implementing the pilot program. It is imperative that further rulemaking on this program outline the procedures for notifying contractors that their contracts are to be posted on the web and of their right to submit objections to the release of proprietary



Rolls-Royce

#1-82

information in such contracts. The LAE must inform the contracting community of where, how and to whom such objections may be submitted and the procedures that will be employed in considering and resolving the objections. If there is disagreement regarding the proprietary nature of information in a contract, the contractor must be afforded the opportunity to protect its proprietary information through litigation before the disputed contract is posted on the web. In other words, the pilot program must afford industry no less than the procedural and legal rights already provided under the current system for the protection of contractors' commercially-sensitive proprietary information.

VI. Conclusion

Based on the above, Rolls-Royce adamantly opposes the adoption of the proposed program. The decentralized statutory and regulatory system currently in effect provides the public with access to the information to which it is properly entitled. Although the Notice contends that "transparency fosters public confidence in the Government's procurement processes and the critical missions they support," the fact is that transparency must have some reasonable limits or there will be no contractors to support the critical agency missions. Those limits are established by the FOIA and E.O. 12600. There is no evidence that the current system is not working. For all of these reasons, Rolls-Royce plc respectfully requests that this proposal be withdrawn.

Thank you for the opportunity to submit these comments.

Yours sincerely,
For and on behalf of Rolls-Royce plc

John K Boughton QGM
Director of Customer Business

N 2003#1-83



"Huda Thunkett"
<kprender@ramapo.ed
u>

To: Notice.2003-NO1@gsa.gov
cc:
Subject: federal procurement & contracts with industry

07/30/2003 12:45 PM
Please respond to
kprender

We pay the bills.
As a taxpayer and citizen I'd like to know what they are and to whom I'm
paying.
Please make this information apparent on the web.
Thank you,
Kevin W. Prendergast
39-05 Sunderland Dr.
Fair Lawn N.J. 07410

N2003#1-84



"Scott Ashby"
<Scott.Ashby@JustAddSun.com>

To: Notice.2003-NO1@gsa.gov
cc: "Bryon Glathar" <Bryon.Glathar@JustAddSun.com>
Subject: Disclosure of Government Spending & Contracts

08/02/2003 12:00 PM

I am writing to express the views of myself, family and many friends. I think it is imperative that all government spending to private vendors be posted on the worldwide web to be viewed by the public. It is the right thing to do to open a window into the spending of our tax dollars. I understand that corporations and government lawyers negotiating these contracts would have more interest in not disclosing the agreements that exist. It is the core of our government to have checks and balances so that personal self interest is not served, but that justice and order thrive. By keeping government spending a secret, we are allowing the government to squander our tax dollars with no regard for the people and their money.

I would strongly urge you to not be swayed by self interest, reject the interests of corporations and do what is right for the United States and her people. Please make information on government contracts and spending available to the public by posting such information on the worldwide web.

Thank you for your consideration,

Scott Ashby
Inventory Manager
Del Sol L.C.
(800) 884-5815 x304

N 2003 #1-85



"Le and Doc Bradham"
<docandle@alltel.net>

08/02/2003 07:23 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Government contracts

We want government waste controlled. We want an accounting of \$200 billion dollars in government waste every year - immediately. Something needs to be corrected, this is the taxpayers money not yours!

Sincerely,

Mr. & Mrs. Julian C. Bradham, Sr.
116 Travelers Point
Toccoa, GA 30577

N 2003 #1-86



"Thomas P Cheesman"
<techees@juno.com>

08/02/2003 02:33 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: Federal Contracts

GSA: I am totally against the idea of OMB to begin making Federal contracts available to the general public on the world-wide web. There is absolutely no reason for this except to make it easier for corporations and other businesses to get another "foot-in- the-door for gov't contracts. Thank you.

Thomas P. Cheesman
763 N. Green Circle
Venice, FL 34285

N-2003 #1-87

Robert H. Hanneman
568 Wildflower Trail
Myrtle Beach, SC 29579
July 28, 2003

General Services Admin Regulatory Secretariat
1800 F St. NW, Room 4035
Attn: Laurie Duarte
Washington, D.C. 20405

Dear Ms. Duarte,

Re: Notice 2003-N01

Please post federal contracts on the internet, showing the full text of all contracts paid with tax dollars.

Include the company name that is awarded the contract.

Thank you very much,

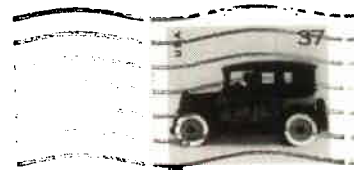
Robert H. Hanneman

N-2003.#1-88

Emerald Bay Golf Club
A Guarded Gate Championship Golf Course Community
Member Owned Limited Membership
"On Beautiful Lake Palestine"

It is time for our
Govn't to be more
accountable for the
Contract bidding and
the use of it citizens
Tax Dollars. Put as many
contracts on Internet as
possible. Notice 2003-ND1

 Mary Silva
127 S Bay Dr.
Bullard, TX 75757



POST CARD

General Services Administration
Regulatory Secretariat
1800 F Street NW
Room 4035
Attn: Laurie Duarte
Washington, D.C.
20405

MJ

12003#1-89



"Milliren, Julia J"
<Julia.J.Milliren@uwsp
.edu>

To: Notice.2003-NO1@gsa.gov
CC:
Subject: Government Contracts.

08/03/2003 09:16 PM

Hello,

I support the proposed initiative to put government contracts above a certain amount of money on the web and available to all citizens to read. I feel that this practice would be of great value to our democracy as it will help keep people of a variety interests of informed, active, honest and accountable. Please go through with this proposal.

Sincerely,

Julia Milliren
Oconomowoc, WI
jmill1368@uwsp.edu

112003 #1-90



" "

<dreamteam2@earthlink.net>

To: Notice.2003-NO1@gsa.gov

CC:

Subject: Posting of Government Contracts on the Internet

08/03/2003 09:43 PM

Please respond to
dreamteam2

Dear Sirs:

I feel that during this period of weak economic growth, our government needs to let the people see our government is spending our tax dollars wisely. I feel that one of the best ways to do this is to post all contracts awarded by our various government agencies on a website for all to see. Of course the exception would be for those contracts which the posting of would jepordise national security. This would show the taxpaying citizen what our government agencies are using their money for. It would be in compliance of the Freedom Of Information Act, and reassure the public that their tax money is being well spent. Why? A great deal of non essential goods and services that would normally have been purchased because there was more than enough money would not be purchased because the agency would be scrutinized by the public, and held more accountable for their expenditures. It would force the contractors to be more competitive with their bidding with one another for these contracts, therefore holding prices and costs down as low as possible.

I believe that during a time when almost every state within our country is experiencing budget shortfalls and having to cut back services and programs to balance their budgets, it's time to reassure the tax payer that their money is being spent wisely, and one of the best ways to do this is to let them see these contracts for themselves. They have a right to know what's being bought with their tax money.

The people need to feel that their government is acting in their best interest. If it isn't, they might just take matters into their own hands and who knows what that could lead to ... the recall of a govenor; another tea party? Who knows?

Thank you for considering this,

Tim

--- dreamteam2@earthlink.net

--- EarthLink: It's your Internet.

N-2003 #1-91
7/26/03

General Services Administration
Regulatory Secretariat
1800 F. Street - N.W. Room 435
Attn - Laurie Kuntz
Washington D.C. 20405

Dear Sirs,

The enclosed newspaper article
probably says it far better than
I can, however, as a long time
active local politician, I know
how hard it's been to obtain
information from town & county
re: their contracts.

I've had a copy of the Freedom
of Information Act & the well
written, it's often failed to bring
in success to me the taxpayers!

Yours Truly
E. Hausermann



N-2003 #1-92

7-27-03

Dear Laurie

I want to enact full disclosure on all Gov. contracts which involves my tax money.

Please put as many contracts on the internet as ^{soon as} possible. We have a right to know

Notice 2003-NO1

Regards

Susan Cox Grace
P.O. Box 52
Murrells Inlet, SC
29576

ATLANTIC

P.O. Box 67 • Hwy. 701 • Tabor City, N.C. 28463
Phone 919-653-3153 • Myrtle Beach 448-3002

N2003#1-93



LorieLux@aol.com

08/04/2003 03:10 PM

To: Notice.2003-NO1@gsa.gov.

cc: (bcc: Notice.2003-no1)

Subject: Internet contract-posting project at OMB

My family, friends, and I would like to support the concept of posting government contracts on the Internet. Obviously with the Internet, it is possible

for citizens to see for themselves how the budget is administered, and at this point, how contracts are awarded, including to whom, when, and where, etc. Although this information would have to become a daily posting and might seem monumental, the computers can handle the job, and if each state agency would also do this, it would make our government less prone to graft. ONLY DISHONEST

POLITICIANS WILL FIGHT THE IDEA OF POSTING GOVERNMENT CONTRACTS PUBLICLY. Honest people have nothing to hide, right? And, best of all, this would maybe give the country a few new JOBS, which are badly needed at this point. People could be hired to post the information on the Internet -- or actually just transfer the information from the computer files in the financial office to the Internet site.

I would like verification that this e-mail has been received. E-mail me at: lorielux@aol.com. I hope we're all on the same side here.

N-2003#1-94



"Barbara Hunley"
<barbara_hunley@hotmail.com>

To: notice.2003-NO1@gsa.gov
cc:
Subject: Internet posting of contracts

08/05/2003 01:18 PM

Please pass legislation to require all federal agencies and departments to post their contracts on the Internet for public review.

Thank you,

Barbara Hunley

17 2003 #1-95

August 5, 2003

(VIA E-mail: Notice.2003-No1@gsa.gov)

General Service Administration
Regulatory Secretariat (MVA)
1800 F. Street, NW., Room 4035
ATTN: Laurie Duarte
Washington, DC 20405

RE: Notice 2003-N01

Dear Ms. Duarte:

On behalf of the 10,000 federal employees represented by the American Federation of State, County and Municipal Employees, Council 26 (AFSCME), I am writing this letter to offer comments regarding the General Services Administration and its Integrated Acquisition Environment Program Office to make Federal contracts more transparent and available to the public on the world wide web. AFSCME members, who work in numerous agencies including the Federal Aviation Administration, the Department of Justice, the Department of Agriculture, the Peace Corps, the Department of Justice, U.S. Commission on Civil Rights and Voice of America, are very interested in this effort to provide the public and federal employees with information regarding government contracts.

The history of corruption and waste regarding government procurement demands that the details of all contracts be available for public scrutiny. Due to this history of corruption, Congress and state legislatures have enacted laws that require government agencies to conduct competitive bidding as a means of disclosing to the public what services the government will be purchasing and to give interested parties a fair chance of bidding for the services. If the government is willing to disclose to interested parties through the bidding process details of the services that are being offered for private sector performance, it only seems logical that the final contract should be disclosed to all interested parties and the public.

Further, The Office of Federal Procurement Policy (OFPP) has recognized that the public should have access to the details of government contracts. The OFPP in a policy letter No. 78-3 dated March 30, 1978 stated that " Procurement is one of the principal means whereby our Government effectuates national policies, as to both

112003#1-95

Letter to L. Duarte
August 5, 2003
Page 2

domestic and international concerns, and therefore the public has a strong interest in how it is conducted. The public's right to scrutinize the process must be recognized, particularly with regard to the terms and conditions of awarded contracts which represent government action, and with regard to contract deliverables."

AFSCME contends that government contracts are "public contracts" and that taxpayers and government employees have a right to know what the government has agreed to buy and at what price. AFSCME strongly encourages the General Service Administration and the Integrated Acquisition Environment program to launch the proposed pilot program to make the details of every government contract available to the American taxpayer. We believe that this will help make government more accountable to the American people.

On behalf of AFSCME Council 26, I appreciate the opportunity to comment and we look forward to your decision regarding this matter.

Sincerely,

Don Maddrey
Labor & Legislative Affairs Representative
AFSCME Council 26

1 2003-96

Tony Caffrey
12307 Mount Pleasant Drive
Laurel, Md 20708

General Services Administration
Regulatory Secretariat
Att. Laurie Duarte
1800 F Street NW Room 4035
Washington DC 20405

August 1, 2003

Comments on Notice 2003-N01-Internet Contract Posting Project

I wish to urge the federal authorities to take an aggressive stance toward posting not just the actual federal contract documents on the Internet, but also the inter and intra agency supporting memoranda associated with each contract. This will allow competitors of the award winner to more effectively police the process, the better to ensure transparency.

That, in turn, will result in government receiving bids that are more competitive, resulting in lower expenditure of public funds, and less need to expend public funds to audit and police the process. It will also increase pressure on departments and agencies to ensure that their decision-making processes rise to the standards required and espoused. Result! Better government of the people, by the people, for the people.

I believe that the financial costs of implementing this proposal are minimal, relative to the benefits. There are other indirect costs such as the potential to compromise confidential commercial information. I will not address that issue, but instead leave it to others more qualified than me, other than to say that bidders should be required to demonstrate in advance why the release of specific information would be commercially damaging. If the government does not agree the bidder would be allowed to withdraw to preserve their information. Obviously, for high tech, and other sensitive contracts that is not very practical. But for many mundane, low-tech contracts, it is eminently practical.

Rec'd
8/5/03
(me)

N2003#1-96

What follows is largely personal anecdote supported by independent corroboration of experience bidding on a local government contract. Why is that appropriate for the Federal Register? Three reasons! First, if you are unaware of the extent of the problem you are unable to define the problem, and then correct it.

Second, the events described below occurred in the federal backyard, in Rockville, Maryland barely fifteen miles from 1800 F Street NW Washington DC. If what is described below can occur in Rockville, a federal dormitory town, then worse may be occurring in other far-flung communities where the search lights may not shine as bright.

Third, if state and local government are unwilling to reform, it falls to the federal government to set the standard for transparency in public contracting.

If anything like what occurred in the process in the process described below is occurring in even half of 1% of local, state, or federal contracts around the country, we are in big trouble.

Here is a brief account of my one experience in bidding on a public contract.

In 1997 I bid on local government contracts in Montgomery County Maryland a suburb of Washington DC. Montgomery considers itself a bastion of good government. The contracts required that the contractor(s) be responsible for \$90 to \$100 million in public funds for a period of up to 11 years. That is \$3-9million per year. The low bid was around \$500, 000 per year to do all the work required by the contract. I was not the lowest bidder and therefore not awarded contract.

N2003#1-96

I suspected foul play, and in 1998 filed state FOIA requests to inspect the records associated with the award of contract. Some records were released to me, others denied on the grounds of executive or deliberative process privilege.

In March 2000 I filed suit, challenging denial of twenty-six specific records. All records were released to me in August 2000. I applied to have my attorney fees refunded and was denied by Circuit Court. The Md. Court of Special Appeals upheld that decision. The Md. Court of Appeals reversed and remanded the lower court decision. That is now a reported case. Caffrey v. the Department of Liquor Control for Montgomery County, et al. 370 Md. 272, 805 A.2d. 268.

On July 24, 2003 an order granting my attorney fees was entered in Circuit Court Rockville, Md. Case number 208208

Many disturbing revelations emerged over the past six years. Here are some highlights.

1: In court, the county did not challenge Caffrey's claim that when they awarded one of the three separate contracts as an "emergency" contract they violated relevant state law, county code, and procurement regulations.

2: Nor did they challenge his claim that the legislative intent of the Maryland General Assembly was undermined, when in 1998 relevant state law was "secretly" amended via the Annual Corrective Bill, a device "not intended to affect any law other than to correct technical errors," and that just four specific individuals benefited from this amendment.

The amendment made it illegal for anyone, to hold a specific contract with the county, other than the four specific individuals who held these contracts on January 1, 1997. This amendment was "tailor-made" to facilitate "kickbacks" on public contracts. As the relevant law currently stands Montgomery County is prohibited from issuing certain contracts to all of humanity, with the exception of the four specific individuals who held such contracts as of January 1, 1997. One of those four individuals is Caffrey's former

N/2003#1-96

employer. As of July 28, 2003 staff at the Maryland Department of Legislative Services informs, that the entire file on the 1998 Annual Corrective Bill is “missing”. A state FOIA request to inspect the file was mailed to the agency chief July 29, 2003.

3. On 11-05-1997 Caffrey wrote to the Director, Office of Procurement, pointing out that the awardee of the “emergency “ contract was not the low bidder on the contract. On 11-07-1997 the Director, acknowledged that their had been an error, and claimed it was due to a math miscalculation. Separately, on 11-07-1997 the Director, created a memo to file, concerning the award of the emergency contract.

The memo acknowledges that the memo was created after discussions on the issue with the Office of County Attorney. The memo describes in detail the “alleged” math error that occurred in the award of the emergency contract. That memo was marked “Confidential” and describes a decision taken by the Director. The memo was suppressed from public scrutiny until released to Caffrey in August 2000.

Why was public access to this memo denied? Simple. Other records released to Caffrey flatly contradict the claim of any math error. Unanswered today are: 1: what is the real reason why the low bidder was not awarded the emergency contract? And 2: to what degree was the Office of County Attorney a knowledgeable and willing participant in this cover-up? No explanation as to the nature of the emergency has ever been provided. Without going into detail here, Caffrey can demonstrate that it was a contrived emergency.

4. The Circuit Court, in holding Caffrey to be the prevailing party in the lawsuit, rejected the claims made in affidavit under penalty of perjury, by the Chief of Division of General Counsel in the Office of County Attorney. It is one thing for a court to reject the affidavit of a criminal defendant, or unreliable witness, it is another matter entirely for a court to reject the affidavit of an Officer of the Court.

5. The Washington post of September 4, 2000 reported that Caffrey testified to the Montgomery County Council, that, based upon a sample survey, conducted by means of state FOIA requests it was possible that up to fifty percent of county contracts were being issued in violation of procurement regulations. One would think that responsible officials would want to correct any such deficiencies, if for no other reason than to avoid expenditure of public funds litigating the disputes that would inevitably result. Not so in Montgomery.

Instead, rather than fix the problem they made it more difficult to discover if there was a problem. The Council placed a question on the November 2002 ballot that was approved by the voters. The question amended section 505 "Right to Information" of the County Charter. Result, all discretion to disclose or not disclose inter and intra agency memoranda has been removed from agency heads. The Charter now mandates that the County must deny access to all categories of records that the state may deny access to.

Now open to question is whether the charter is in conflict with state law. Case law holds that the provisions of state law are to be liberally construed in order to effectuate the legislative intent of maximum openness. If Montgomery now automatically denies everything, that is not liberal construction.

6: As a footnote to the above it is worth pointing out that on December 21, 2001 in Circuit Court in Rockville, Howard Lee Cook, Director of the Montgomery Department of Liquor Control from 1996 until 2001 pleaded guilty to charges of Misappropriation by Fiduciary, Misconduct in Office, and Felony Theft. The theft charge revealed that Cook had successfully stolen about \$140,000, and unsuccessfully attempted to steal about \$500, 000. In his defense, his attorney stated Cook was attempting to repay investors who lost money in a Nigerian oil scam. Cook was a staffer in the Johnson White House.

11/2003#1-96

Attached are the following documents as Exhibits to provide verification and support the claims made above.

A: Copy of cover page of Appellate Decision in Caffrey case.

B: Copy of Circuit Court order awarding attorney fees.

C: Copy of pre and post amendment of the relevant section of Maryland State Law.

D: Copy of the confidential 11-07-1997 Procurement memo and the record that flatly contradicts the claim of math error.

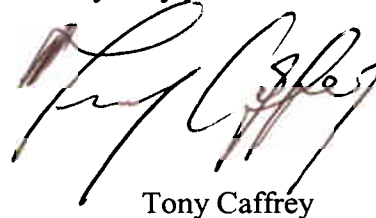
E Copy of Washington Post Article citing Caffrey testimony.

F: Copy of pre and post amendment of Montgomery County Charter.

G: Copies cover page of transcript of Cook court case and news article reporting it.

For convenience, your attention is drawn to the highlighted portions

Very truly yours

A handwritten signature in dark ink, appearing to read 'Tony Caffrey', with a stylized flourish at the end.

Tony Caffrey

N 2003#1-96

Circuit Court for Montgomery County
Case # 208208

IN THE COURT OF APPEALS OF

MARYLAND

No. 127

September Term, 2001

ANTHONY G. CAFFREY

v.

DEPARTMENT OF LIQUOR CONTROL
FOR MONTGOMERY COUNTY,
MARYLAND, *et al.*

Bell, C.J.
Eldridge
Raker
Wilner
Cathell
Harrell
Battaglia.

JJ.

Opinion by Harrell, J.

Filed: August 23, 2002

EXHIBIT A

ANTHONY G CAFFREY
PLAINTIFF

2003 #1-96

vs.

Case No.: 208208-V

DEPARTMENT OF LIQUOR CONTROL MONTGOMERY COUNTY, ET AL
DEFENDANT

NOTICE OF JUDGMENT
(817)

I HEREBY CERTIFY that the following Judgment was entered in the
above entitled case on July 24th, 2003:

JUDGMENT ENTERED AND RECORDED IN JUDGMENT INDEX IN FAVOR OF THE
PLAINTIFF ANTHONY G. CAFFREY AND AGAINST THE DEFENDANTS DEPARTMENT OF
LIQUOR CONTROL FOR MONTGOMERY COUNTY, AND OFFICE OF THE BORAD OF
LICENSE COMMISSIONERS FOR MONTGOMERY COUNTY JOINTLY AND SEVERALLY IN
THE AMOUNT OF FORTY-SEVEN THOUSAND NINETY-SEVEN DOLLARS AND FIFTY
CENTS (\$47,097.50) TOGETHER WITH COSTS.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the seal of
this Court.

Molly G. Ruhl
Clerk of the Circuit Court for
Montgomery County, Maryland



EXHIBIT
B

JEROME B RICHMAN, ESQ
ROUTE 450
2101 DEFENSE HIGHWAY
CROFTON MD 21114

ORIGINAL

N 2003#1-96

ANTHONY G. CAFFREY

* IN THE

Complainant

* CIRCUIT COURT

v.

* FOR

DEPARTMENT OF LIQUOR CONTROL
FOR MONTGOMERY COUNTY, et al.

* MONTGOMERY COUNTY

Defendants

* Civil No. 208208

*

* * * * *

ORDER GRANTING COMPLAINANT'S MOTION FOR ATTORNEY'S FEES

This matter having come on for hearing on July 17, 2003, counsel for the parties having been heard, it is this 21 day of July, 2003, by the Circuit Court for Montgomery County, for reasons stated by the Court at said hearing:

ORDERED, that the Motion for Attorney's Fees filed on behalf of ANTHONY G. CAFFREY, Complainant, pursuant to Maryland Public Information Act, State Government Code Ann. § 10-623(f), be, and it is hereby GRANTED;

ORDERED, that the Department of Liquor Control for Montgomery County, and the Office of the Board of License Commissioners for Montgomery County shall, jointly and severally, pay to ANTHONY G. CAFFREY, Complainant, attorney's fees and litigation costs in the following amounts:

| <u>Attorney</u> | <u>Fees</u> | <u>Costs</u> |
|-------------------------|--------------------|-----------------|
| Brian W. Craver, Esq. | \$14,300.00 | \$699.90 |
| Cynthia Young, Esq. | 14,300.00 | 40.00 |
| Jerome B. Richman, Esq. | <u>18,225.00</u> | <u>132.60</u> |
| <u>Totals</u> | <u>\$46,225.00</u> | <u>\$872.50</u> |

ENTERED

JUL 24 2003 *He*

Clerk of the Circuit Court
Montgomery County, Md.

ORDERED, that judgment be entered in favor of ANTHONY G. CAFFREY, Complainant, against the Department of Liquor Control for Montgomery County, Defendant, and the Office of the Board of License Commissioners for Montgomery County, Defendant, in the sum of Forty-Seven Thousand Ninety-Seven Dollars and Fifty Cents (\$47,097.50), together with costs;

ORDERED, that with respect to the Ethics Commission for Montgomery County, Defendant, and the Office of Procurement for Montgomery County, Defendant, Complainant's Motion for Attorney's Fees be, and it is hereby, DENIED.



William J. Rowan, III, Judge

cc: Jerome B. Richman, Esq.
2101 Defense Highway
Crofton, Maryland 21114

Charles L. Frederick, Esq.
Office of the County Attorney
101 Monroe Street
Rockville, Maryland 20850-2540

ENTERED

JUL 24 2003

Clerk of the Circuit Court
Montgomery County, Md.

EXHIBIT
C

PARRIS N. GLENDENING, Governor

Ch. 701

(2) ~~PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO THE DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL WHEN APPLYING FOR A CLASS A BEER, WINE AND LIQUOR LICENSE UNDER § 6-101(Q) OF THIS ARTICLE.~~

~~10-506.~~

(E) (1) ~~IN MONTGOMERY COUNTY, NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY IN THIS ARTICLE, ON THE DEATH OF THE DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL HOLDING A CLASS A BEER, WINE AND LIQUOR LICENSE FOR THE BENEFIT OF THE DEPARTMENT OF LIQUOR CONTROL UNDER § 6-101(Q) OF THIS ARTICLE, THE BOARD OF LICENSE COMMISSIONERS SHALL ISSUE A NEW LICENSE TO THE SUCCESSOR DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL WITHOUT THE NECESSITY OF A HEARING OR ANY FURTHER PROCEEDINGS FOR THE BALANCE OF THE CURRENT LICENSE YEAR.~~

(2) ~~ON THE EXPIRATION OF A LICENSE ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A RENEWAL LICENSE MAY BE ISSUED TO THE SUCCESSOR DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL IN ACCORDANCE WITH § 10-301 OF THIS ARTICLE.~~

~~11-516.~~

(d) (1) ~~The privileges conferred on a Class A (off-sale) beer [license and] LICENSE, Class A (off sale) beer and light wine [license] LICENSE, AND A CLASS A (OFF-SALE) BEER, WINE AND LIQUOR LICENSE may be exercised from 6 a.m. to 1 a.m. the day following for every day including Sunday.~~

(2) ~~The privileges conferred on a Class B and Class D beer license and the privileges conferred on a Class B and Class D beer and light wine license may be exercised from 6 a.m. to 1 a.m. the day following for every day including Sunday for off sale.~~

~~15-203.~~

(a) (1) The liquor control boards may establish and maintain stores to be known as "county liquor dispensaries", for the sale of any sparkling or fortified wine and any other alcoholic beverages containing more than 14 percent of alcohol by volume, in sealed packages or containers. These packages or containers may not be opened nor their contents consumed upon the premises where sold.

(2) In Montgomery County they may sell any alcoholic beverages.

(3) In the following counties they may sell any alcoholic beverages except beer:

(i) Somerset; and

(ii) Worcester.

(d) (1) THIS SUBSECTION APPLIES IN MONTGOMERY COUNTY.

(2) [In Montgomery County, the] Hill County liquor dispensary is established at one or more locations determined by the Director of the Department of Liquor Control with the approval of the County Executive.

(3) THE DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL MAY NOT ENTER INTO A CONTRACT WITH AN INDIVIDUAL TO OPERATE A RETAIL OUTLET FOR THE SALE OF BEER, WINE AND LIQUOR UNLESS

(I) THE BOARD OF LICENSE COMMISSIONERS DETERMINES THAT THE INDIVIDUAL IS FIT TO OPERATE THE RETAIL OUTLET, AND

(II) THE DIRECTOR HAD A CONTRACT WITH AN INDIVIDUAL TO OPERATE THE RETAIL OUTLET ON JANUARY 1, 1997.

(4) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL MAY NOT CONTRACT WITH A PERSON TO OPERATE A COUNTY LIQUOR DISPENSARY OR A RETAIL OUTLET FOR THE SALE OF BEER, WINE, AND LIQUOR.

(5) IN COUNTY RETAIL DISPENSARY STORES AND IN RETAIL OUTLETS OPERATED UNDER CONTRACT WITH THE DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL ONLY THE FOLLOWING ITEMS MAY BE SOLD:

(I) NONCHILLED BEER;

(II) WINE;

(III) LIQUOR;

(IV) ICE; AND

(V) BOTTLED WATER.

(6) FOR PURPOSES OF ENFORCING THE PROVISIONS OF THIS ARTICLE RELATING TO THE SALE OF ALCOHOLIC BEVERAGES TO MINORS AND ARTICLE 27, §§ 400 THROUGH 403A OF THE CODE:

(I) A MANAGER OF A COUNTY LIQUOR DISPENSARY, AND AN INDIVIDUAL WITH WHOM THE DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL CONTRACTS TO OPERATE A RETAIL OUTLET UNDER PARAGRAPH (3) OF THIS SUBSECTION, SHALL BE DEEMED LICENSEES;

(II) AN EMPLOYEE OF A COUNTY LIQUOR DISPENSARY, AND AN EMPLOYEE OF THE RETAIL OUTLET UNDER PARAGRAPH (3) OF THIS SUBSECTION, SHALL BE DEEMED EMPLOYEES OF A LICENSEE; AND

(III) AN INDIVIDUAL LISTED IN ITEM (I) OR (II) OF THIS PARAGRAPH WHO VIOLATES ANY PROVISION OF THIS ARTICLE RELATING TO THE SALE OF ALCOHOLIC BEVERAGES TO MINORS, OR ARTICLE 27, §§ 400 THROUGH 403A OF THE CODE:

1. IS SUBJECT TO THE PENALTIES AUTHORIZED BY LAW, INCLUDING A CIVIL CITATION ISSUED UNDER § 16-408 OF THIS ARTICLE AND ARTICLE 27, § 402 OF THE CODE; AND

2. IS SUBJECT TO FINE AND SUSPENSION OR REVOCATION OF EMPLOYMENT BY THE BOARD OF LICENSE COMMISSIONERS IN THE SAME MANNER AS A LICENSEE OR EMPLOYEE OF A LICENSEE IS SUBJECT TO FINE AND SUSPENSION OR REVOCATION FOR A VIOLATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1997.

Approved May 22, 1997.

CHAPTER 702

(House Bill 934)

AN ACT concerning

Montgomery County – Alcoholic Beverages
(Code Revised— Multiple Licenses)

MC 703-97

FOR the purpose of ~~revising, without substantive change, the provisions of law that relate to multiple alcoholic beverages licenses in Montgomery County~~ altering the conditions under which a Class B beer, wine and liquor licensee in Montgomery County may obtain additional Class B beer, wine and liquor licenses for restaurants located within certain areas; defining certain terms; making technical and stylistic changes; and generally relating to alcoholic beverages in Montgomery County.

BY renumbering

Article 2B – Alcoholic Beverages
Section 9-102(a-3)
to be Section 9-102.2
Annotated Code of Maryland
(1996 Replacement Volume)

BY repealing

Article 2B – Alcoholic Beverages
Section 9-102(a-2)
~~Annotated Code of Maryland~~
(1996 Replacement Volume)

BY adding to

Article 2B – Alcoholic Beverages
Section 9-102.1

(2) The Department shall indicate on the certificate the time the articles are accepted for record and send a copy of it to the chief assessor of the county where the property is located.

(e) A transfer, vesting, or devolution of title to the property is not invalidated or otherwise affected by any error or defect in the property certificate, failure to file it, or failure of the Department to act on it.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 3-112 of the Corporations and Associations Article, rather than § 3-112(a) and (b), was being amended.

Occurred: Chapter 654 (House Bill 251) of the Acts of 1997.

SECTION 3. AND BE IT FURTHER ENACTED, That the Drafter's Notes contained in this Act are not law and may not be considered to have been enacted as part of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That, except for Section 2 of this Act, this Act is an emergency measure, is necessary for the immediate preservation of the public health and safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 1998.

Approved April 14, 1998.

CHAPTER 21

(Senate Bill 93)

AN ACT concerning

Annual Corrective Bill

FOR the purpose of correcting certain errors and omissions in certain articles of the Annotated Code and in certain uncodified laws and public local laws; clarifying language; providing that with certain exceptions this Act is not intended to affect any law other than to correct technical errors; renumbering certain sections of the Annotated Code; reorganizing certain sections of the Annotated Code; validating certain corrections made by the publisher of the Annotated Code; providing for the effect and construction of certain provisions of this Act; providing for the application of certain provisions of this Act; and making certain provisions of this Act an emergency measure.

BY repealing and reenacting, with amendments,

Article 2B - Alcoholic Beverages

Section 2-207(a)(3)(v), 6-601(d), 8-202(d)(7) and (e)(5), 8-222(a)(3), 8-302(c), 8-402(f)(2), 8-404.1(g)(2), 9-101(a)(1)(ii), 9-102(b-1)(1)(i), 9-213(f)(1), 10-401(a)(3)(ix), 11-402(a), 15-112(d)(3)(ii), (e)(5)(ii), and (q)(4)(ii), 15-203(d)(3), 16-302, 16-404(b) and (c), 20-101(c), and 20-103(d)

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section 2-207(a)(4), 8-501 through 8-506, 9-101(f)(1), and 11-403(a)(9) and (b)(5)(iii)

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, with amendments,

Article 10 – Legal Officials

Section 41

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, with amendments,

Article 23A – Corporations – Municipal

Section 2B(b)(4) and 3(b)(3)(ii)

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, with amendments,

Article 24 – Political Subdivisions – Miscellaneous Provisions

Section 9-706(a)

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, with amendments,

Article 27 – Crimes and Punishments

Section 9(a)(2), 12A-2(b)(1)(i), 17, 36B(e), 77, 139A(a), 277(j)(1), 297(d)(2)(ii), 413(e)(3)(i), 435, 551(d)(3), 579B(b), 592(b)(1), 594B(f)(2), 616K(b), 690(e), 700B(a), 700D-1(a), 719, 730(j)(1), 732, 737(a)(6) and (g), 770(a)(4), 781(c), 792(d)(5), 807(f)(3), 809(b)(2)(i), 813, 818(6), and 828

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, without amendments,

Article 27 – Crimes and Punishments

Section 732(a)(2)(i)

Annotated Code of Maryland

MD LEGISLATIVE SERVICES LIBRARY

corporation, and a licensee licensed under the provisions of this article[, either directly or indirectly,] may not offer, EITHER DIRECTLY OR INDIRECTLY, to pay any commission, profit or remuneration or make any gift to any commissioner or County employee or to anyone on behalf of the commissioner or County employee.

DRAFTER'S NOTE

Error: Extraneous language in Article 2B, § 15-112(d)(3)(ii), grammatical errors in Article 2B, § 15-112(e)(5)(ii) and (q)(4)(ii).

Occurred: Ch. 32, Acts of 1997

15-203

(d) (3) The Director of the Department of Liquor Control may not enter into a contract with [an individual] A PERSON to operate a retail outlet for the sale of beer, wine and liquor unless:

(i) The Board of License Commissioners determines that the [individual] PERSON is fit to operate the retail outlet, and

(ii) The Director had a contract with [an individual] THE PERSON to operate the retail outlet on January 1, 1997

DRAFTER'S NOTE

Error: Incorrect terminology in Article 2B, § 15-203(d)(3).

Occurred: Ch. 701, Acts of 1997.

16-302.

The Comptroller is hereby directed and empowered to make, amend, alter and publish rules and regulations for the proper enforcement of his duties under this article. He is authorized to adopt rules and regulations in regard to labeling and advertising similar to those adopted by the Federal [Alcohol Administration] BUREAU OF ALCOHOL, TOBACCO AND FIREARMS; nature, form and capacity of all containers; credit sales; records to be kept by licensees and others engaged in the business; and such other subjects as may be deemed necessary for the proper administration of his duties under this article. Any violation of any rule or regulation adopted hereunder, or under the provisions of the Tax - General Article that relate to the alcoholic beverage tax, shall be ground for revocation or suspension of license, and the offender shall be subject to the penalties prescribed by § 16-503 of this article.

DRAFTER'S NOTE

Error: Obsolete terminology in Article 2B, § 16-302.

Occurred: Various chapters.

6-10-98 (5)
MEMO TO FILE
NOT DENIABLE



OFFICE OF PROCUREMENT
MEMORANDUM

EXHIBIT

Douglas M. Duncan
County Executive

November 7, 1997

TO: Contract file
FROM: Beatrice P. Tignor, Director
Office of Procurement

SUBJECT: RFP# 8854000001 - Retail Alcoholic Beverage Store Operation and Management - Award of the Muddy Branch Store

Background

The Muddy Branch store was awarded to J.W. Associates, Inc. on September 25, 1997. J.W. Associates was allowed to withdraw from the bid process because negotiations failed. On October 10, 1997, award was posted to Marquez. Marquez requested withdrawal from the bid process on October 17, 1997. Finally, award was posted to Mr. William Haberlin on October 21, 1997.

On November 4, 1997, Mr. Leonard Kligman contacted the Department of Liquor Control (DLC) to verify whether the calculations were correct for the awarding of the Muddy Branch store. The DLC confirmed that the ranking of the awards was incorrect. The request for proposal (RFP) cost proposal form stated that:

... the above rates will be applied to the County's latest fiscal year net retail and licensee sales figures of each store to determine the lowest commission rates offered to the County for each store."

Discussion

The award to Mr. William Haberlin was made based on the retail rate instead of the retail/licensee rates multiplied by the required sales figures (see calculation below).

| Offeror | Retail Rate | Licensee Rate | |
|----------|--------------|---------------|-----------------------|
| Haberlin | 6.24% x | 2.00% x | |
| Sales | \$2,300,680 | \$236,788 | |
| Subtotal | \$143,562.43 | \$4,735.76 | Total \$148,298.19 |
| Kligman | 6.25% x | 1.00% x | |
| Sales | \$2,300,680 | \$236,788 | |
| Subtotal | \$143,792.50 | \$2,367.88 | Total \$146,160.38 |
| | | | Difference \$2,137.81 |

NEW AWARDS

RECOMMENDATION FOR APPROVAL

| | | | |
|-------|------------|-----|----------|
| IFB#: | RFP#: | SS: | INFORMAL |
| | 8854000001 | | |

County Council Res. No. # _____

CRC: _____

CAO _____

DOP: _____

Joint Cooperative Procurement? _____

no

Approval Date: _____

Issued by: _____

PX/K#:

Issued: 7/23/97

Opened: 8/22/97

Emergency? _____

☒ yes
 ☐ no

| Description of Procurement: | | RETAIL ALCOHOLIC BEVERAGE STORE OPS & MGNT | |
|-----------------------------|-------------------|--|--|
| No. of Offers | K Expiration Date | May Extend to Date | |
| Solicited | Received | | |
| ADPICS | 14 | | |

| MFD | P/S | CONTRACTOR NAME | ITEM | AWARD |
|--------|-----|--|-----------------|-----------------|
| AB BC | 1 | WILLIAM J. HABERLIN (Muddy Branch) | | \$148,298.00 |
| | | | | (per year) |
| | | | | \$1,482,980.00 |
| | | | | (Over 10 Years) |
| BB CC | 1 | LEONARD KLIGMAN t/a KLIGMAN (Kensington) | | \$139,892.00 |
| | | MANAGEMENT SYSTEMS, INC. | | (per year) |
| | | | | \$1,398,920.00 |
| | | | | (Over 10 Years) |
| Actual | | Estimated XXX | AWARD TOTAL: | |
| | | | \$2,881,900.00 | |
| | | | (Over 10 Years) | |

Request To Post On Public List: This Recommendation Is Made On The Basis Of The Information That Is Hereby Provided On Page 1

Procurement Spec. _____ Date _____ Sr. Proc. Spec./Cont. Coordin. _____ Director, Office of Procurement

| |
|--------------------------------|
| Award of Contract: _____ |
| Are Funds Encumbered? Yes / No |
| PX: _____ XX: _____ |
| Not Req'd/Req. K#: _____ |

Actual Date Posted on Public Listing: 10/21/97

Valid Insurance Certificate Rec'd?

Yes: Exp Date: 9/18/98

Performance Bond Rec'd & Cleared?

Yes: Exp Date: 10/27/98

MFD Compliance or Waiver Approved?

App. Date: _____

Not Req'd

Not Req'd

Verbal OK from Kimberly Gay - Armour on 10/23/97

N/A See 10/21/97 Memo

Chief, Procurement Operations

Date

Director, Off of Procurement

Date

Procurement Spec.

Date Proc. Spec.

Date

5/11/94 PMMD-10

washingtonpost.com

EXHIBIT
E

Montgomery Examines Its Purchasing Process

Some Bidders Say Rules Not Enforced

By Jo Becker
Washington Post Staff Writer
Monday, September 4, 2000; Page B07

A government contract potentially worth hundreds of thousands of dollars a year was up for grabs, and the competition was stiff.

Four companies submitted bids to provide mental health care services to Montgomery County's poor. When the Silver Spring-based Affiliated Sante Group lost, it wanted to know why.

The company asked for the written guidelines that county employees used to rank each bidder. It seemed a routine request: County rules state that guidelines must be used when cost is not the sole factor in awarding a bid.

But the company was told no such guidelines existed.

"It is quite clear that not having mandated written scoring guidelines must have impacted scoring," company attorney Irving Greenberg wrote to county officials in July. "It is also clear that this is not an isolated incident."

Montgomery County prides itself on good government and has an elaborate set of purchasing rules to protect against favoritism, ensure that taxpayers get the best services for their money and keep the county out of court.

But in some cases, the rules are ambiguous and county departments are not applying them consistently. By failing to document the methodology used to rank an untold number of bids, the county arguably has awarded contracts in violation of its own regulations.

As a consequence, the county is facing a lawsuit, its inspector general is concerned about a lack of accountability, and several County Council members are contemplating rewriting the regulations in question.

"It's important that the process be open, consistent and well-documented and that the results be readily available to those who have problems with the process," said council member Blair G. Ewing (D-At Large). "Otherwise it opens up the county to questions."

The issue was brought to light during a recent County Council meeting by a losing bidder who is suing the county over the award of a \$7.5 million contract to manage county-owned liquor stores.

Tony Caffrey, of Gaithersburg, believes he should have won the contract. But when Caffrey asked for the written scoring guidelines used to evaluate the bids, he, too, was told that none existed. Caffrey then made a public records request for guidelines used to award 19 other county contracts that had been protested from 1997 to 1999.

In nine cases, county departments said they did not use written scoring guidelines. When the guidelines

were used, some provided a detailed explanation of how various decisions were made, and others provided only the sketchiest of details.

"I've heard people in Montgomery County disparage government in the District of Columbia, but you people are just a sinking ship like them," Caffrey told County Council members. "You have a serious problem, and you need to investigate it."

David Weaver, a spokesman for County Executive Douglas M. Duncan (D), maintains that the county technically has followed the rules. Nothing in the regulations states specifically that the scoring guidelines must be written down, he said. Moreover, he said, vendors have much of the information they need about how they will be judged before they submit a bid.

"I'm convinced that scoring guidelines are an extremely small, in fact insignificant, part of the approval process," Weaver said. "If this undermined the fairness and objectivity of the award, that would be of great concern, but it doesn't."

Weaver said, however, that the rules need clarification. The county executive's office is reviewing all the purchasing regulations and is expected to make recommendations this fall.

"If an aggrieved bidder requests a scoring guideline and it doesn't exist, then that's a problem," Weaver said. "I don't know what assumption departments are currently operating under, which in and of itself is a problem."

By one measure, the county's purchasing practices are well received by the business community. Less than half of 1 percent of 1,110 contracts awarded last year were protested. But this isn't the first time the county's purchasing practices have come under fire.

In two high-profile cases, the Duncan administration waived rules entirely to award contracts. Last year, officials limited competition when purchasing a \$5.1 million phone system by using a process usually reserved for contracts under \$25,000. In another case, a 1999 audit criticized the administration for waiving rules in order to award a no-bid, \$70,000 police consulting contract to W. Gregory Wims, the politically connected chairman of the Washington Suburban Sanitary Commission.

At issue now is a process used to award contracts in cases where bidders are evaluated based on subjective criteria in addition to cost. Of the \$518 million in goods, services and construction the county purchased last year, it awarded \$141 million in contracts using this process.

The county solicits bids in what is called a request for proposal, or RFP. Bidders are told in advance the total number of points they can win in categories that can range from previous experience to the approach a vendor will use to provide a needed service. Bidders also know how much weight each category will be given.

A panel of county employees then meets to judge the bids. County regulations state that the department "must develop scoring guidelines" that spell out how points should be awarded--category by category--as the panel evaluates each bidder.

The regulations state that "these guidelines are confidential until a proposed award is posted."

Montgomery Inspector General Norman D. Butts said that wording implies that the guidelines should be in a written format that can later be made public, though he refused to comment on the specifics of

Caffrey's pending lawsuit. Without such guidelines, Butts said, it would be nearly impossible to audit contract awards to see whether they were awarded fairly.

Beatrice P. Tignor, the county's procurement director, said the guidelines can be given orally. Tignor said she has never given county departments any formal directions regarding scoring guidelines.

But Tignor did just that in a Dec. 21, 1999, memo that reiterated the county's regulations and included a two-page sample scoring guideline.

"If the using department fails to provide a scoring guideline to each QSC member prior to the evaluation of a proposal, the RFP may be canceled," Tignor wrote.

Asked about the memo, Tignor said she had forgotten about it. The memo was written shortly after Affiliated Sante Group protested the award of the mental health care contract. Although it later dismissed its lawsuit, the company's attorney called the county's reasoning "tortuous" in his July letter.

Tignor pointed out several safeguards in place to ensure fair competition. All awards are reviewed by her office, and even her decision can be appealed. More importantly, she said, employees who sit on the committees that rank bids must attest that they have no conflict of interest.

Besides, Tignor said, Montgomery has taken the unusual step of allowing bidders to question judges about how bids were scored. But Caffrey said that's not good enough.

"How can you police that?" he said. "They can say whatever they want after the fact."

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ARTICLE 5. GENERAL PROVISIONS

SECTION 501 **Disaster-Continuity of Government During Emergencies**

In order to insure continuity of government during an emergency caused by a disaster or enemy attack, the Council shall prescribe by law for the temporary suspension of specific provisions of this Charter and for temporary succession to the powers and duties of public offices whether filled by election or appointment.

SECTION 502 **Annual Report**

The County Executive shall prepare and provide to the Council and the public, within sixty days after the end of each fiscal year, an annual report setting forth the activities and accomplishments of the County government.

SECTION 503 **Annual Compilation of Laws**

As soon as practicable each year, the County Attorney shall have published a compilation or a cumulative supplement to the County Code, with index, which shall include all legislation and regulations of a general or permanent nature adopted or approved by the Council or County Executive during the preceding year.

SECTION 504 **County Code**

Unless the Council shall provide for more frequent publication by law, each ten years there shall be compiled under the direction of the County Attorney an annotated code of all public local laws, County legislation, and regulations then having the force and effect of law, and this Charter. The Council may, by legislation, legalize this code and shall cause it to be published in an indexed volume.

SECTION 505 **Right to Information**

Any person shall have the right to inspect any document, except confidential police records, personnel records, or records of a confidential private nature as defined by law. The Council may adopt reasonable regulations for such inspection. A certified copy of any such document shall be furnished upon payment of a reasonable fee established by such regulations. This section shall not apply to a document or other material obtained or prepared in anticipation of litigation or for use in legal proceedings to which the County is a party.

SECTION 506 **Separability**

If any article, section or provision of this Charter shall be held unconstitutional, invalid, or inapplicable to any person or circumstance by the final decision of a court of competent jurisdiction,

all other articles, sections or provisions of this Charter and their application to all other persons and circumstances shall be separable and shall not be affected by such decision.

SECTION 507 **Amendment**

This Charter may be amended in the manner provided in Section 5 of Article XI-A of the Constitution of Maryland.

SECTION 508 **Effective Date**

This amended Charter shall become effective from and after the thirtieth day after its adoption.

SECTION 509 **Charter Review Commission**

There shall be a Charter Review Commission appointed by the County Council every four years, within six months after the Council assumes office, for the purpose of studying the Charter. The Commission shall be composed of eleven members who shall be residents of the County, five of whom shall be appointed from a list of names submitted by the County Executive. Not more than six members shall be of the same political party. The chairperson shall be designated by the Council and the vice-chairperson shall be designated by the County Executive. The Commission shall report at least once to the Council on the Commission's activities within one year after appointment of the Commission. Commission reports shall be submitted not later than May 1 of every even-numbered year. The reports shall contain recommendations concerning proposed Charter amendments, if any.

SECTION 510 **Collective Bargaining**

The Montgomery County Council shall provide by law for collective bargaining with binding arbitration with an authorized representative of the Montgomery County police officers. Any law so enacted shall prohibit strikes or work stoppages by police officers.

SECTION 510A **Collective Bargaining-Fire Fighters**

The Montgomery County Council shall provide by law for collective bargaining with binding arbitration with an authorized representative of the Montgomery County career fire fighters. Any law so enacted shall prohibit strikes or work stoppages by career fire fighters.

SECTION 511 **Collective Bargaining-County Employees**

The Montgomery County Council may provide by law for collective bargaining, with arbitration or other impasse resolution procedures, with authorized representatives of officers

EXHIBIT

F

ARTICLE 5. GENERAL PROVISIONS

SECTION 501

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N 2003 # 1-96

ORIGINAL

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

| | | |
|-------------------|----|--------------------|
| ----- | -X | |
| | : | |
| STATE OF MARYLAND | : | |
| | : | |
| v. | : | |
| | : | Criminal No. 94020 |
| HOWARD LEE COOK, | : | |
| | : | |
| Defendant. | : | |
| ----- | -X | |

EXHIBIT
C.

PLEA AGREEMENT AND
SENTENCING HEARING

Rockville, Maryland

December 21, 2001

MONTGOMERY TRANSCRIBERS, INC.

washingtonpost.com

11 2003 #1-96

Ex-Liquor Official Gets Probation

Montgomery Funds Used Illegally

By Jo Becker

Washington Post Staff Writer

Saturday, December 22, 2001; Page B01

The former director of Montgomery County's liquor sales operation was sentenced to five years' probation yesterday after pleading guilty to misconduct in office, misappropriating county funds and participating in what prosecutors described as an elaborate money-laundering scheme unrelated to his public duties.

Howard L. Cook Jr., 69, ran the Department of Liquor Control from 1997 until he was forced from office in February. A fixture in local Democratic circles for years, he is the longtime companion of Del. Sheila Ellis Hixson, one of the state's most powerful Democratic legislators.

He pleaded guilty to two misdemeanors involving his tenure as the county's liquor chief and stealing more than \$67,000 from a local bank through the use of unauthorized wire transfers.

"I just want to say I'm very sorry this happened," Cook told Montgomery County Circuit Court Judge Louise G. Scrivener before the sentencing. "I feel bad about my reputation going south. I have nothing else to say."

A heavy-set man dressed in an ill-fitting blue blazer and a multicolored tie emblazoned with Christmas trees, Cook's face was pallid as prosecutors detailed for the first time the crimes that led to yesterday's plea bargain.

Attorney Paul Kemp said that Cook was unwittingly duped into playing a role in the money-laundering scheme as he attempted to collect money he and other investors were owed in a decade-old Nigerian oil-brokering deal.

Citing Cook's age, his poor health and the fact that he had no prior criminal record, Scrivener suspended Cook's jail sentence and placed him on probation for the maximum allowable time to better ensure Cook made good on his promise of full financial restitution.

Scrivener said that while she was mindful of Cook's decades-long career in public service -- he worked for the federal and county governments -- "it has ended with a betrayal of the public trust."

She ordered Cook to repay the county more than \$10,000, money for which he sought and received reimbursements during his time as director of Montgomery County's unique multimillion-dollar control over the sale of alcohol within its borders.

Prosecutors did not publicly detail their findings on those counts. But according to county officials, Cook submitted expense reports for improper travel, food and beverage, personal postage and other costs and was reimbursed for them. The county is still holding Cook's last paycheck, more than enough to cover Cook's debt.

Cook must also repay more than \$67,000 to Damascus Community Bank, a bank with four branches in

Montgomery and Frederick counties that was the victim of the unauthorized wire transfer schemes.

One victim said he was unhappy with Cook's punishment. "I don't think it's fair," said David Tucker, president of Sensible Software Cos., a business based in Ijamsville, Md. "He was a trusted public figure -- he should have gone to jail."

Cook was hired by County Executive Douglas M. Duncan (D), who once counted Hixson as a close ally. That relationship was severed, however, after county officials placed Cook on leave in February. Duncan's administration fired Cook in April and asked State's Attorney Douglas F. Gansler (D) to investigate.

Statements entered into the record yesterday outlined what allegedly followed:

Eight days after he was fired, Cook opened an account under the name Cook and Associates. In early May, the owner of a Kent County catering business learned from her bank that a faxed wire transfer, purportedly bearing her signature, requested that \$67,150 be moved to Cook's account. The owner advised her bank that the signature was a forgery. State police began an investigation.

They learned that a total of \$144,740 had been wired from Sensible Software's account into the account set up by Cook in two separate May transactions. The requests had been faxed to Damascus Community Bank, where Sensible Software had an account. The faxed requests bore what appeared to be the signature of the company's president, Tucker. In an interview yesterday, Tucker said that the signature was forged.

Community Bank officials called Cook's bank and asked officials there to freeze his account, Community Bank Vice President Cynthia Cervenka said yesterday. The bank restored Sensible Software's account but was able to recover only about \$77,000 of the \$144,740 that had been wired.

Most of the money that was moved into Cook's account was quickly paid out to a number of third parties, prosecutors said. "He's guilty of receiving stolen funds into his account, some of which he kept for his own purposes," said Assistant State's Attorney Robert Steinheimer, who added that the Maryland attorney general's office and the U.S. attorney's office were also involved in the investigation. Both those offices declined to comment yesterday.

Kemp said yesterday that his client had been approached by a man who owed Cook and others money from a nearly decade-old Nigerian oil deal. Kemp said the man asked Cook to set up an account in order to receive transfers that Cook could then use to reimburse himself and the others.

Cook did not forge any documents but was guilty of theft by "willful blindness," Kemp said. "He allowed himself to be used as a sort of shell account."

Kemp also said that Cook helped Damascus recover the \$77,000, though Cervenka said she had no knowledge of "Mr. Cook's involvement on that end."

Cook declined to answer questions after the hearing.

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General Services Administration Comments on Contracts Online Proposal (2003-N01)

The General Services Administration (GSA) is pleased to submit its comments concerning the Federal Register request for comment on Notice 2003-N01 "Posting Awarded Contracts on the Worldwide Web." We fully support the goals of transparency. We believe that because of the potential cost to the taxpayer of this particular initiative, a business case should be completed before proceeding with the effort. The business case should address two things that are not yet clear:

1. Who is the target audience for the information?
2. What information are they seeking?

The business case should be designed around the goal of providing the information necessary to deliver transparency in the most cost effective manner. We also note that retrofitting existing systems would be far more costly than factoring this requirement into future systems.

To this end, we suggest considering or addressing the following as you develop the business case:

Leveraging Available Systems to Contain Costs

Once the needed information is determined, current systems and available data should be leveraged in order to contain the costs of this initiative. This is particularly important as this is an unfunded requirement that couldn't be included in the budget cycle until fiscal year 2006. For instance, .

- The bulk of the contract (statement of work/performance work statement, terms and conditions, award criteria) is included in the solicitation already posted on FedBizOpps (FBO) for public viewing.
- Award notices are posted at FBO at the time of award for contracts in excess of \$25,000 and include the contract award price and winning vendor, among other things.
- Level of competition information is available in FPDS and will also be available in FPDS-NG.

By moving incrementally, the Integrated Acquisition Environment (IAE) might be able to provide some information prior to the 2006 budget cycle by leveraging currently available systems and the information they maintain. If additional information is required, it ought to be included as a new requirement for all systems upgrades and new systems beginning in 2006. Some current systems might be able to provide expanded information with minor modification. For instance, FBO award notices could be expanded to provide unit prices.

Redaction Costs and Liability

The cost of redaction is correlated to the type of information that needs to be released. Balancing the value of the information against the cost of redaction should be considered in developing a cost effective solution. For instance, posting a contractor's winning technical proposal is associated with the following costs:

- Government redaction costs
- Contractor redaction costs (response)
- Litigation costs when the contractor sues for an injunction against release of information as violating the Trade Secrets Act when they don't agree with the government on what is proprietary information

The costs of government redaction are now reimbursed under the Freedom of Information Act (FOIA). The IAE office must investigate ways to lower the costs associated with redaction. One proposal is to restrict proprietary information to one section of an offeror's proposal, thereby saving the time of reviewing the entire proposal. Guidance on redaction should be issued to assist agencies.

Another consideration is whether and how a contractor would be reimbursed for their efforts in redaction. This effort would be required of all winning contractors rather than just those on which a FOIA is received. One suggestion is that the contractor be paid through an optional line item, fixed price, included in all proposals submitted to the government. See Attachment 1 for FOIA process with relevant cost elements.

Finally, redaction costs per unit may increase if entire contracts are posted. We believe that posting entire contracts also entails posting of each modification to that contract if transparency is to be maintained. Therefore, each modification, sometimes lengthy, will also have to be redacted.

Maintenance

We believe there is a relationship between the type of information that is posted, archiving time frames, and cost. For instance, posting entire contracts would require that modifications to those contracts be posted as well and all modifications would then have to remain posted for the life of the contract, thus increasing costs. The Federal Supply Service's multiple award schedules (MAS) program has approximately 12,000 active contracts and hundreds of modifications are regularly processed each year. The information would have to be continuously updated from the initial load of the contract award with each modification. If a subset of the available information is deemed more appropriate, maintenance costs will clearly decrease, not only due to lower initial load costs, but also because archiving could be done more regularly.

Scope

When considering how to provide the most cost effective solution, consideration should be given to whether this requirement should cover already awarded contracts or only new awards. The costs of redacting, formatting for ease of public viewing, and maintaining existing contracts would be significantly higher than for only new awards from a date certain.

We believe the requirement should not cover awards below the simplified acquisition threshold (\$100,000) and should be higher for the pilot effort. Regardless, the requirement should be implemented incrementally, perhaps in both dollar thresholds and information required, to ensure lessons learned are instituted to ensure cost savings are realized to improve return on investment.

When considering the type of information, the way in which it might be searched on by someone in the public is also important. More clearly defining the audience for this initiative will help in determining both how they would want to search and how the information should be displayed. For instance, searching by NAICS might have appeal to some while searching on contractor name might appeal to others.

Guidance

Guidance is needed for all of the following:

- Specific guidance on what is releasable on classified contracts
- Specific guidance on what is releasable on sensitive but unclassified contracts?
- Redaction guidance
- Application of FOIA

GSA believes that the goals of transparency can best be served by a good business case that guarantees that the most valuable information isn't obfuscated by too much unnecessary information. A well thought out approach will provide an optimized solution worth its cost.

Thank you for the opportunity to comment on this pilot. Please keep us advised of any developments related to this project. Questions can be addressed to Laura Auletta at 202-20807279 or laura.auletta@gsa.gov.

11/2003#1-98



"Pat Hunt"

<nonnypat@juno.com>

To: Notice.2003-NO1@gsa.gov

cc:

Subject: Eliminating waste in government

03/02/2000 03:30 AM

Requiring all federal departments to post on the interne their billions of dollars worth of contracts should be enacted immediately! This should include the name of the company to whom the contract is awarded (i.e. Halliburton) and whether there were other, perhaps lower, bids. This could also help eliminate some of the pork-barrel and downright silly research that eats up so many of our dollars.

Patricia Hunt
18218-60 Paradise Mountain Road
Valley Center, CA 92082

N2003 #1-99

COUNCIL OF DEFENSE AND SPACE INDUSTRY ASSOCIATIONS

1000 Wilson Boulevard
Suite 1800
Arlington, Virginia 22209
www.codsia.org
(703) 243-2020

August 5, 2003
CODSIA Case No. 6-03

By Electronic Mail
www.notice.2003-N01@gsa.gov

General Services Administration Regulatory Secretariat (MVA)
Room 4035
1800 F Street, N.W.
Washington, D.C. 20405

Attn: Laurie Duarte

Dear Ms. Duarte:

The undersigned members of the Council of Defense and Space Industry Associations ("CODSIA") appreciate the opportunity to comment on the GSA notice published in the Federal Register on June 6, 2003 (68 F.R. 33950) requesting comments on the posting of awarded contracts on the worldwide web.

Formed in 1964 by industry associations with common interests in the defense and space fields, CODSIA is currently composed of six associations representing over 4,000 member companies across the nation. Participation in CODSIA is strictly voluntary. Therefore, a decision by any member association to abstain from participating in a particular CODSIA case is not necessarily an indication of dissent.

SUMMARY

We support the goals of transparency of the federal government's procurement actions and providing information to the public on where the federal government is spending taxpayer dollars. The federal acquisition system is a tool for agencies to achieve their missions and, with recognized limitations for certain security or proprietary information, the public should know how agencies are accomplishing their missions.

The Federal Government annually enters into over 34 million procurement transactions, including thousands of new contracts. Significant information is already made available to the public about what goods and services the government buys, the spending for those goods and services, the identification of the contractors awarded contracts and the aggregate amount awarded to them. Many individual contracts are, with certain limitations, “public” information and available on request to the contracting agency – subject to the important redaction of company proprietary data information.

In fact, several federal agencies (particularly the Department of Defense) have been moving aggressively to internally provide electronic access to copies of contracts and related contractual information to facilitate contract administration, contract payment and contract closeout. This DoD system, known as Electronic Document Access (EDA), is password controlled to ensure access to only authorized DoD acquisition and program officials. Also through password controls, a limited number of contractors have access to this DoD system for their own contracts and payment information. In addition, as GSA well knows, its own GSA Schedules program contracts, including pricing, are a matter of public information and posted on its public website.

We appreciate GSA’s outreach to the public to identify priorities before implementing any pilot program of posting contracts. We strongly urge GSA, the Integrated Acquisition Environment (IAE) program office, and the Office of Management and Budget to proceed cautiously and slowly with forming the pilot program and that these entities communicate continuously with the affected communities and the public about its actions.

We particularly appreciate the affirmation made in the notice that “any proprietary information contained in the contract covered by the pilot (posting program) would be redacted before posting.”¹ But “it is easier said than done,” as evidenced by the request for comments on the nature of guidance to be provided to address redaction of proprietary information. We strongly request that GSA hold a public meeting to discuss the parameters of any posting program that have already been decided, and to solicit further public input, in addition to these comments, before the posting program is initiated.

Until the procedures are put in place for ensuring that firms are given the opportunity to evaluate awarded contracts and redact proprietary information, and until evidence is available that redacted information will be protected and not posted, we remain skeptical and cautious about this pilot program and recommend that GSA not initiate it. Until the purposes of the pilot program are more succinctly clarified and the purpose for web posting of contracts is more fully explained, we are

¹ Supplemental Information at 68 F.R. 33951 (6/6/03)

opposed to such actions. In our view, the risks far outweigh the perceived, but ill-defined, need.

SPECIFIC COMMENTS ON THE NOTICE

1) WE ARE CONCERNED ABOUT THE VOLUME OF TRANSACTIONS TO BE INCLUDED IN THE PILOT PROGRAM

Today, the Federal Government processes over 34 million contract transactions, ranging from purchase card transactions and small purchases below \$100,000 to billion dollar weapons systems and health care programs. For example, in fiscal year 2002, the Department of Defense issued over 5.8 million contract actions and awarded almost \$165 billion in total awards; the Executive Office of the President issued only 910 contract actions totaling less than \$50 million.² Some agencies have automatic contract writing systems that use the uniform contract format set forth in the FAR, and some agencies continue to prepare and process contracts manually. Some agencies process millions of transactions through the GSA schedules, while others do very little. In the absence of any underlying data or information on the scope of the pilot program to be initiated and the number of agencies to be covered, it is impossible to predict, much less ascertain, whether the volume of transaction information will impose a significant compliance burden on the agencies and the contractors. Further, GSA's explanation did not sufficiently address why or whether the information such proposed web access will provide useful information to the public.

2) WE ARE CONCERNED ABOUT THE NATURE OF THE CONTRACTS TO BE INCLUDED IN THE PILOT PROGRAM

There are "contracts" and there are "contracts." Certain types of advisory and assistance services contracts might appropriately be included in a limited pilot program, but it is not easy to identify them based on the coding system for federal contracts in use today. Contracts to support military activities, or financial transactions, or other national economic functions such as transportation or space, may not be appropriate. Too many agencies award a mixture of contract requirements, so identifying and then segregating the types of contracts to be included in the pilot program will be an important but challenging activity.

3) WE ARE CONCERNED ABOUT THE POTENTIAL IMPLICATIONS FOR NATIONAL AND HOMELAND SECURITY

As noted in the supplemental information to the notice, GSA acknowledges that guidance may be needed on the identification of contracts whose disclosure would

² Fiscal Year 2002 Federal Procurement Data System Report (as of 4/16/03) at page 2

compromise national security.³ This acknowledgement is both valuable and troubling. It is valuable in that GSA and others in government recognize that the disclosure of contracts that are not themselves classified for national security purposes may still contain information that the government would choose not to release.

For example, there may be no harm in disclosing that the government has a contract for National Guard gear with a November first delivery requirement in Los Angeles. However, if the government has four contracts with different vendors all for delivery of the same or complementary gear to the same location at the same time, this collective analysis of the government's actions could raise a concern for homeland security. Regrettably, there is no simple way for most to know what information, either individually or collectively, has implications for national or homeland security.

We are troubled that GSA has not already given more attention to this matter or is not prepared to disclose it. If not already done so, we strongly recommend that any pilot program be fully discussed with appropriate national and homeland security agencies before it is initiated.

Congress was sufficiently concerned about the use and effect of aggregated information that it placed significant restraints on the collection and use of "critical infrastructure protection" data provided to the Department of Homeland Security. While it may seem obvious that a procurement action for certain nuclear materials should be exempt from disclosure, what about a procurement action for security services at a government facility (such as the National Institutes of Health) known to possess small amounts of nuclear material used for medical research? While any one contract may not provide useful information, knowing that the Department of Transportation has awarded several contracts for various types of security services at the Port of Philadelphia could provide valuable information – information now more readily available on the Internet. Simply put, while summary data about the cost and nature of goods or services acquired is already available, the details in specific contracts (e.g. the work statement, special terms and conditions and delivery schedules) for those goods or services may not be readily available. Since there is nothing "proprietary" to the contractor about the government's solicitation for security services or security equipment, the burden would fall to the government on an individual and on a comprehensive basis to know whether "too much" information was available. We are concerned that individual federal agencies and individual contracting officers cannot be, and should not be, burdened with the responsibility for assessing the impact of aggregated federal contracting information.

³ Supplementary Information 68 F.R. 33951 (6/6/03)

4) WE ARE CONCERNED ABOUT THE RELEASE OF COMPANY PROPRIETARY INFORMATION

As noted above, we compliment GSA for acknowledging that contractor proprietary data will be protected in the pilot program. However, by seeking comments on the methodologies to be used to ensure that protection, we are concerned that GSA has not given sufficient thought and attention to this significant matter. While the Federal Government has developed a well-tested methodology for requiring contractors to identify proprietary data in official submissions through contract clause provisions and marking requirements, not every government contract transaction is required to be evaluated for proprietary information and then redacted. The Federal Government has also developed a well-tested methodology for giving contractors the opportunity to validate the continued assertion of proprietary data when a request for a release of information is made. As a preliminary matter, we recommend that no information be posted through this pilot program that has not been subjected to the existing rigorous government and contractor review process that accompanies a response to a Freedom of Information Act request. Explicit guidance to this effect should be provided to each agency and contracting activity proposed to be included in the pilot program, and to every contractor whose contract is to be disclosed.

5) WE ARE CONCERNED THAT POSTING RISKS COMPLIANCE WITH EXPORT CONTROL REGULATIONS

Companies are held accountable for the control of their information, and ensuring that any release of information that may be subject to government control under the export regulations of either the Department of Commerce or the Department of State are fully and completely complied with. A company faces significant administrative, civil and criminal penalties for violations of the export control statutes. The need to protect this information is in addition to the company's desire to protect its own proprietary data.

Under these export regulations, the uncontrolled posting of export-controlled information on a worldwide accessible medium such as the Internet, that could be accessed from virtually anywhere in the world by virtually anyone in the world, would qualify as an "export" and constitute a violation of the law. Even the federal government is subjected to certain export control restrictions on the information that it discloses. We see no indication that GSA has considered the implications of publishing export-controlled information. Explicit guidance to this effect should be provided to each agency and contracting activity proposed to be included in the pilot program, and to every contractor whose contract is to be disclosed.

6) WE ARE CONCERNED ABOUT THE ADMINISTRATIVE EXPENSES IMPOSED ON BOTH GOVERNMENT AND CONTRACTORS

Companies do not automatically redact their proposals or contracts containing proprietary information because, under the FAR (Parts 24.2 and 52.215-1(e)), companies are permitted to protect their entire proposal from release outside the government. Typically redactions are only made when an agency receives a request to release a copy of the contract. By law and Executive Order, agencies must provide a contractor with notice of the request and a reasonable time within which to review the contract and notify the agency of information the contractor considers proprietary. The agency considers the contractor's recommendations and may agree (and then agree to redact the information) or disagree (and the contractor is free to challenge the agency's action through a "reverse FOIA" action) before any information is released. In either case, there is the time and expense of both the agency and the contractor in taking action to identify, redact and review proprietary information on a case-by-case basis.

Some have suggested that it is more appropriate for a contractor to identify all proprietary information in the contract at the time the contract is formed, thus avoiding the need for any post-award reviews. Although this suggestion may have superficial appeal, it does require all offerors, not just the awardee, to increase its bid and proposal costs. Moreover, each competitor would need to include in its price the expense of engaging in formal discussions with the government in the effort to identify, explain and confirm that the contractor-identified proprietary information remains proprietary after award.

Some have suggested that the government modify the standard contract format to provide a readily segregable portion of the contract within which all company proprietary data can be housed. However, this approach still does not address the costs associated with the suggested process. Even so, a process would have to be established to conduct a subsequent review of all post-award contract modifications, orders and other contract administration actions.

Before initiating any pilot project for the electronic posting of federal contracts, consideration also has to be given to the time and expense of both the government and the affected contractors to identify requests, review material, process assertions and then disclose and post appropriate information. There will be additional contracting agency costs associated with this review. In addition, there will be significant hardware, software and government personnel costs in developing, maintaining and using the website for the stored information.

7) POSTING WILL NOT FACILITATE A "CONSTRUCTIVE DIALOGUE" TO PROMOTE MODEL CONTRACTING

One of the justifications cited by GSA for moving forward with the posting program is that public interest groups believe disclosure will facilitate a "constructive

dialogue to promote model contracting.”⁴ From the perspective of our member companies, nothing about the posting of actual contracts will realistically contribute to that goal. As stated above, there are far too many contract actions of varying types for innumerable purposes that simply prohibit the development of “model contracting.” There are other, far less intrusive, methods to begin that dialogue.

Among the direct methods to begin such a dialogue would be to require agencies to post “lessons learned” data on web-based, publicly available links for each procurement office of an agency. For example, as part of the May 2003 revisions to Office of Management and Budget Circular A-76, OMB required each agency to post lessons learned about its competitive sourcing program.

The uniform contract format has been part of the FAR for decades. Numerous congressional, General Accounting Office and inspectors general reports, GAO bid protest decisions, plus comments from the public, have contributed to the legislative and regulatory approaches to contract terms and conditions, approaches to statements of work, pricing methodologies and contract administration matters. Federal agencies regularly notify the public of contract awards, the nature of the contracts and the maximum value of those contracts. DoD provides that information daily on its public website; the Washington Post publishes a list every Monday! The Federal Government is doing a better job of collecting aggregated information in a more timely and accurate manner. All of this has taken place without the unfettered disclosure of actual contracts.

CODSIA welcomes a constructive dialogue with federal agencies and public interest groups concerning model contracting. We would be pleased to co-host one or more open meetings to begin that dialogue – and to use that forum to determine the need for the future public release of actual contracts. That dialogue can proceed without having to release actual contracts.

8) POSTING WILL NOT “IMPROVE WEAK PRACTICES”

It is hard to know what concerns the public interest groups seek to address by their use of the term “weak practices.”⁵ Nothing in an awarded contract will provide the public with information about the process that an agency used to conduct its required market research, solicit offers or make an award decision. The contract will provide only the results of the contract process. Again, numerous congressional, General Accounting Office and other reports have highlighted concerns with the process used to solicit and award contracts. The Federal Acquisition Regulation (and numerous agency supplements) already describes for the public the typical process that an agency will follow in seeking to contract for goods or services. The public is generally able to access through the Internet information on agency future

⁴ Supplementary Information, 68 F.R. 33951 (6/06/03)

⁵ Supplementary Information, 68 F.R. 33951 (6/06/03)

planned procurements. The public is also generally able to access through the Internet specific agency solicitations and to follow that process until at least the due date for proposals (and beyond through the solicitation amendment process). The public is also generally able to access through the Internet the award decisions resulting from these solicitations. In our view, nothing about the practices used by agencies for awarding contracts would be gained by having Internet access to the contracts that were the result of those pre-contract practices.

CODSIA welcomes the opportunity to discuss with federal agencies and the public interest groups ways to address “weak practices” used by procurement agencies. We would be pleased to co-host one or more open meetings to begin that discussion – and to use that forum to determine the need for the future public release of actual contracts.

9) POSTING WILL NOT REDUCE “REPETITIVE REQUESTS UNDER FOIA”

Another rationale offered by the public interest groups for posting contracts online is to “reduce repetitive requests under FOIA for contracts that are of particular interest to the public.”⁶ While automatic posting of contracts may reduce the need for any request for disclosure, we believe that the allegedly “repetitive requests” for information on one specific contract actually signifies that these “repetitive requests” are seeking proprietary information that should not be and would not be disclosed under the FOIA. In our view, rather than disclosing contracts through this web-posting program, it is more appropriate to focus on the agency’s and the Department of Justice’s operating procedures for evaluating and releasing contract information under FOIA.

CODSIA welcomes the opportunity to discuss with federal agencies and the public interest groups ways to address concerns with repetitive requests for disclosure under FOIA. We would be pleased to co-host one or more open meetings to begin that discussion – and to use that forum to determine whether there is a need for the future public release of actual contracts.

CONCLUSION

While we recognize the value of transparency, we also are concerned about the risk of inadvertent or improper disclosure of valuable information – affecting the government or the contractor. We are concerned that GSA has not yet developed (or disclosed) the nature and scope of the posting program, the types of contracts to be included or the procedures for protecting contractor proprietary data.

We do not believe that the rationale proffered by the public interest groups for having instant public access to specific contracts provides any justification for the

⁶ Supplementary Information, 68 F. R. 33951 (6/06/03)

time and expense for such significant governmental action. In any event, other methods should be tried first to see if the stated goals of these public interest groups can be achieved through less intrusive and less costly means.

As we stated above, CODSIA welcomes the opportunity to discuss with federal agencies and public interest groups ways to address the issues raised by this notice. We would be pleased to co-host one or more open meetings to begin that discussion – and to use them to determine the need for the future public release of actual contracts.

We also strongly request that GSA hold a public meeting to discuss the parameters of any posting program that has already been decided, and to solicit further public input, in addition to the single notice for comment, before any posting program is initiated.

However, until the purpose of the posting pilot program is clearer and the need for web posting of contracts is more explicit, we are opposed to the Federal Government taking such actions. In our view, the risks of such actions far outweigh the minimal benefits.

We appreciate the opportunity to comment on the GSA notice. If you have any questions, please contact Alan Chvotkin of the Professional Services Council, the Project Officer for this CODSIA case. He can be reached at (703) 875-8059 or at Chvotkin@pscouncil.org.

Sincerely,

(SEE ATTACHED CODSIA SIGNATORIES)



Gary D. Engebretson
President
Contract Services Association of America



Alan Chvotkin
Senior Vice-President & Counsel
Professional Services Council



Dan C. Heinemeier
President, GEIA
Electronic Industries Alliance



Lawrence P. Farrell, Jr.
President and CEO
National Defense Industrial Association



John Douglass
President and CEO
Aerospace Industries Association



Cynthia Brown
President
American Shipbuilding Association

N2003#1-100



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

JUL 25 2003

DPAP/P

Ms. Laurie Duarte
General Services Administration
Regulatory Secretariat (MVA)
1800 F Street, NW, Room 4035
Washington, DC 20405

Dear Ms. Duarte:

DoD appreciates the opportunity to comment on the General Services Administration's Integrated Acquisition Environment (IAE) Pilot, "Posting Awarded Contracts on the Worldwide Web", published as Notice 2003-N01 in the Federal Register on June 6, 2003. One of the main goals of the pilot effort is to increase transparency in agency acquisition activities. DoD agrees that transparency is generally beneficial to Government and the business community. However, there are significant issues that must be addressed to ensure that the cost of the IAE program does not outweigh the benefit, and that data is safeguarded to protect national security, sensitive unclassified and proprietary information. The IAE program office specifically asked for feedback on two areas: *Scope and Availability*, and *Guidance*. The Department of Defense offers the enclosed comments.

Ms. Deidre A. Lee
Director, Defense Procurement
and Acquisition Policy

cc: GSA, Dep. Assoc. Administrator, (OAP)

Enclosure:
As stated



1. *Scope and Availability.* What parameters (factors) should guide the initial shape of the pilot (e.g., size or type of contract; amount of competition sought; product or service purchased; awards related to specific Federal programs)? How long should contracts remain available after they have been posted?

The pilot should be designed to demonstrate the feasibility of the program, and to assess the costs and benefits. In order to keep costs to a minimum, this can be accomplished by selecting a small number of federal agencies and a subset of contracts.

Considering some agencies (e.g. Defense Logistics Agency) already post similar information on the Internet through their electronic FOIA reading rooms, agencies that do not post the information should be asked to volunteer. Agencies should not be required to pay for the pilot nor any ensuing government wide policy. The participants can work through and establish the procedural processes, including how contracts will be made available to the Integrated Acquisition Environment (IAE) pilot, lead time, internal requirements for redacting information, etc.; as well as review existing Federal Agency solutions that could be expanded or enhanced to serve as the piloted solution. If the program demonstrates that the benefits clearly outweigh the costs, then it can be expanded and adjusted as needed to include all government agencies.

Due to the vast number of contracts awarded each year, the pilot should be limited to a subset of contracts. The pilot should include a select group of contracts that will be most advantageous to the Government. For example, less competitive procurements that would benefit from greater exposure, which might bring about more competition, should be considered. Also, groups of contracts that are routinely requested under FOIA should be considered, if posting to the IAE location will satisfy the FOIA request.

2. *Guidance.* What, if any, type of guidance may be beneficial to ensure posting is consistent with applicable laws and regulations (e.g., is there a need for guidance to address the redaction of proprietary information, the identification of contracts whose disclosure would compromise the national security, or the application of FOIA generally)?

There are some concerns that this is a duplicative effort and that the burden and cost of adding more information will outweigh the benefit to the Government. There are already electronic FOIA reading rooms (e.g. the Department of the Navy); synopses of contract awards through FedBizOps; agency-specific, non-public access databases (e.g. DoD Electronic Document Access); and the Federal Procurement Data System (FPDS). To make this new capability beneficial, the information should be more comprehensive than what is currently available. However, adding this information presents a few issues.

First, to include more information and to make all contracts available for access at a central location will increase the workload for Contracting Officers and/or the FOIA

100
office. Someone will be tasked with screening all contracts for proprietary information and to determine whether or not there are security implications. If Contracting Officers are asked to screen all contracts, additional training and guidance may be needed regarding what information is to be removed, how information will be screened and the process of sending contracts to GSA. A clear definition of "proprietary" may need to be included in the FAR so that agencies throughout the Government consistently implement this requirement. The screening process will be costly in both time and resources.

Second, the increased and worldwide availability of the information is worrisome from a national security point of view. Although classified contracts and other contracts currently exempt under FOIA will not be transmitted for posting, there are significant concerns that the compilation of unclassified contracts available in a fully open, publicly-accessible central location will provide more information than is prudent to potential adversaries.

Lessons learned from recent military operations clearly indicate that the availability of vast quantities of unclassified information on the Internet and the ability to search this data can, and often does, create unique security concerns. The Al Qaeda training manual recovered in Afghanistan stated that 80% of needed data could be gathered via unclassified and open sources [<http://www.usdoj.gov/ag/trainingmanual.htm>]. It is logical to conclude that much DoD information, individually or in aggregate, could provide an adversary insight into DoD capabilities and intentions, putting personnel and operations at risk. In the worst case, unclassified data can compromise sensitive or classified activities, capabilities or intentions or can be aggregated in such a manner that it becomes classified due to compilation.

Additionally, the issues associated with the exploitation of unclassified information must be recognized across the entire Federal Government. Protection of unclassified information through application of operations security, as stated in National Security Decision Directive (NSDD) 298, is a government-wide requirement, not just a DoD concern. Much of the information associated with and critical to homeland security and protection of our critical infrastructures is unclassified. Further, the information gathered for the IAE program, when compiled and tracked over time, will show in detail the intent, direction, research agenda, and areas of need/vulnerability for not just the DoD, but for the entire U.S. government.

Due to these security concerns, the IAE program office should address ways to provide appropriate information to the target audience without making that information available worldwide. Given the decentralization of DoD procurement activities, the internal coordination required to appropriately screen all contracts will be challenging, if not impossible. The coordination and screening of all DoD contracts will be costly.

Finally, the business community typically shows the most interest in prices and the statement of work associated with a contract. As mentioned above, online databases are currently available. Some of these databases provide pricing information such as unit prices. Industry has complained about making this information publicly available. In accordance with FOIA and Executive Order 12600, the Government must obtain consent from industry to release certain information. Seeking this permission and dealing with complaints on a large scale basis will be unacceptably burdensome and costly. To efficiently publish entire contracts will require resolution of the requirement to obtain industry consent to publish certain pricing and other business information.

To achieve benefits, the envisioned IAE capabilities should include more information than is currently available and make it easier for industry to access the data. Yet, by increasing the amount and flow of information, you increase cost in time and resources. The effort also has security and proprietary information repercussions. The pilot program should be designed to measure these costs, risks and benefits in the most efficient manner by limiting the number of participants and the type of contracts made available for access from the planned central location. If, after analysis, the program is deemed beneficial and improves Government acquisition activities, the effort can be expanded to include more contracts and more agencies.

N 2003#1-101

29 July 2003

General Services Administration
Regulatory Secretariat
1800 F Street N.W.
Room 4035
Washington DC

Attention: Laurie Duarte

I have been made aware of the proposal to require Federal Agencies and Departments to post/review the details of all Government Contracts on the Internet.

I STRONGLY endorse this proposal. These ARE taxpayer dollars and they are entitled to know how their money is being spent. In whatever detail they ask for. The more the better. Reporting in a generalized manner or after the fact is immoral at best and criminal at worst.

I urge whatever action can be taken to implement this proposal.

I say, DO IT! DO IT! DO IT!

Sincerely,



Harry J. Whitman
Lt Col USAF Retired
5724 Nicholson Dr.
Tyler, TX 75707
903 581-2154

N 2003 #1-102

4-1-03

Subject: Notice 2003-NO1.

Dear Laurie Duarte,

I agree with Mark Tapscott's comments regarding posting federal contracts on the Internet. Since, we the public are paying for these contracts, we have the right to view these contracts.

Sincerely,

Spart Galiati

Spart Galiati
8529 Calvin Av
Northridge, CA 91324-4122

N 2003 #1-103

July 31, 2003

General Services Administration
1800 F Street, NW, Room 4035
Washington, DC 20405

To Whom It May Concern:

I strongly support the OMB proposal, for which comments were requested in the June 6, 2003 Federal Register, which would post government contracts, subsidies, leases, and other documents online. Any information that is considered sensitive would be redacted.

Not only would this advance open government, an essential element in a democratic society, but it would promote more competitive bidding, which translates into enhanced performance at lower cost to taxpayers. The proposal could also spark greater media, academic, and public advocacy group interest in government purchasing, and hopefully foster more citizen input and monitoring of the process.

Again, I emphatically endorse the proposal to make government contracts, leases, etc. available online, as it would be an enormous victory for open, democratic government.

Thank you for consideration of this letter.

Sincerely,

Brian Tomasik

Brian Tomasik
218 Old Stage Road
East Berne, NY 12059-1854

89 Lakeview Circle
Rockmart, Georgia
July 29, 2003

Dear Sirs:

I think it would be an excellent idea to require that all federal departments and agencies ~~to~~ post the full text of all contracts paid with tax dollars on the Internet for public review. Maybe that would make these departments and agencies act in a more responsible manner in awarding contracts - not as in the past - "you pat my back, I'll pat yours," no matter the cost!

The "goose that laid the golden egg," - the Public,

is sick and tired of the way the federal government throws its money away on costly and ridiculous contracts to their friends and relatives, or lobbyists who pay them the most. It is outrageous!

Making these records public on the Internet would go a long way ~~to~~ in deterring wasteful and corrupt spending.

This Notice 2003-NO1 - or Internet Contract - Posting at OMB should be implemented immediately with as many contracts on the Internet as possible!

More responsible and accountable government contracts should result in lower taxes for the public, and that would

certainly help the morale
of the tax-paying citizens,
which is at an all-time low!

Senators and representatives
are sent to Washington to
represent the public, not
to betray their trust, so I
am all for public disclosure
of their contract awarding.

Sincerely,
Marjorie Bowman

N 2003 #1-105

I want

Notice 2003-No 1

Agnes Martin
1200 Gray #102
Yuba City, Ca 93991

IN RE:

NOTICE - 2003 - No 1

I have lived my life
savings and saving some-
times making due with
second best and all the
while knowing that our
government is the ultimate
booster! Yes, I have to
agree that something must
be done and if this project
helps, then I'm all for it.

I've been told that I might
be surprised to find out just how
much the government knows about
me - so, if my life is an
open book - ?

I believe in a
"Government of the people,
by the people and for the people."
We shouldn't be "dictat-
ing" certain aspects of this
government.

II

Yes, we should be aware
of these transactions.

My grandmother would always
say "Waste not, want not".

Most of the time she wouldn't
even peel the skin from Potatoes
because it was wasteful!

she wasn't miserly, she was
thrifty and thoughtful. She said
that just because ^{we} had food

bleeding their garden and they had
a surplus of crops didn't mean
they should be wasteful. It
meant that if they were ^{careful}
with what they had, they could
help several less fortunate
people. That's how I feel about
this project.

Thank You
J. West



Ms. Lee G. Cook
1200 Gray Ave. Apt. 124
Yuba City, CA 95991

N/2003 #1- 107

7-31-03

Gaurie Duarte.

This is in regards to
Notice 2003-NO1. As
a taxpayer, the more
information that is
out there the better.

Should be law for
all governments.

Diane Malloy
8131-5 Canby Ave
Reseda Ca 91335

4 2003#1-108



"Monica Marsicek"
<monica@leadergraphi
cs.com>

To: Notice.2003-NO1@gsa.gov
CC:
Subject: A Citizen-centric E-Government

08/19/2003 12:08 PM

Hello,

I am currently learning more and more about how our government works every day, and it is very scary to learn how much the general public doesn't know about how our tax dollars are spent. In order to get the deficit back to manageable levels and reappropriate our tax dollars to where they will be most helpful for all citizens, government contracts need to be viewable and criticized by citizens and the media alike. Ralph Nader's proposal to put all government contracts above a certain dollar amount on the web is a sound way to make these available to the general public for a minimum expense. In no case (except cases of national security) should the public not be able to access the information telling us where our tax dollars are going. The government of the people, by the people and for the people has a chance right now to become that ideal more fully than ever before. Thank you for helping it happen!

Monica Marsicek
6835 N. Wolcott
Chicago, IL 60626

N 2003#1-109



"david scott"

<sisyphus1@fiam.net>

To: Notice.2003-NO1@gsa.gov

cc:

Subject: I want to know

08/19/2003 12:45 AM

Please respond to
sisyphus1

Yes to allowing our citizens to see how our process works.

[This E-mail scanned for viruses at mail.fiam.net]

42003#110



"Laurie Gengenbach"
<lagengen@ncat.edu>

08/14/2003 01:41 PM

To: Notice.2003-NO1@gsa.gov
cc:
Subject: government contracts

General Services Administration,
1800 F Street, NW, Room 4035,
Washington, DC, 20405

Dear Sir or Ma'am,

I would like my U.S. government to operate more openly and honestly.

Therefore, I encourage you to make every detail of all government contracts available on the Internet, so reporters, business owners and the general public can see how their money is being spent.

Sincerely,

Laurie Gengenbach

7223 Bulb Road

Julian, NC 27283

N2003 #1-111



Robingaura@cs.com

08/14/2003 10:22 AM

To: Notice.2003-NO1@gsa.gov

cc:

Subject: Government contracts visibility

Dear Folks at the GSA,

I totally applaud all efforts at openness and accountability by posting all contracts, grants, leases and subsidies undertaken by the US Government on the world wide web.

As citizens, we deserve to know where our money is going. I'm sure that much waste and fraud would be brought to light in this manner by the attentions of public spirited citizens.

Please make every effort to implement such a program.

Thank you for your attention to this matter,
Robin Gaura

N 2003#1-112



"Don Speicher"
<sueshe@cowboy.net>

08/13/2003 11:32 PM

To: Notice.2003-NO1@gsa.gov

CC:

Subject: Making federal contracts available to the public

The proposed pilot project to make federal contracts available to the general public via the worldwide web is an idea that resonates with the heart of democracy. Information, free and flowing, is the life blood of an educated public and an educated public, contrary to the belief and actions of many elected officials, is the basis of the strength of the nation. Ignoring the very practical benefits of this kind of information sharing in terms of cost savings and enhanced bidding capability, the principle of making public the public's business should not be denied.

Don Speicher
Pawnee, Oklahoma



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

N 2003#1-113

Ms. Laurie Duarte
General Services Administration
FAR Secretariat (MVA)
1800 F Street, NW, Room 4035
Washington, DC 20405


AUG 1 2003

Dear Ms. Duarte:

We have reviewed the proposed Federal Acquisition Regulation (FAR) Notice No. 2003-N01, "Integrated Acquisition Environment Pilot; Posting Awarded Contracts on the Worldwide Web." The notice seeks public comment to help identify priorities in the implementation of a pilot program that will begin making Federal contracts available to the general public on the worldwide web.

While supporting the Integrated Acquisition Environment (IAE) program office goal of increasing transparency in Government contracting, we are concerned that only information available under the Freedom of Information Act (FOIA) be made available to the general public through the website. Certain types of information such as contractor proprietary data cannot always be easily identified. In addition, unclassified information contained in different contracts could become classified through compilation and thus a risk to national security. Therefore, we recommend that the IAE first consider the type of information available through existing and planned web-based systems, such as FedBizOpps, The Federal Procurement Data System - Next Generation, and the interagency contract directory. These systems are designed to provide general information to the public and a similar scope may be applied to posting Federal contract information. In addition to determining what guidance would be needed to ensure that the posting would be consistent with applicable laws and regulations, the IAE should also consider what type of review process will have to be instituted to ensure that the identified laws and regulations are properly followed. Redaction of contractor proprietary data may prove to be particularly difficult and require coordination with the company involved. Finally, plans for the implementation of a pilot system should be posted to the Federal Register and comments requested prior to actual posting of contract information.

Thank you for the opportunity to comment on the proposal. If you have any questions, please contact Ms. Pat Bartron at (703) 604-8753.


L. Jerry Hansen
Deputy Inspector General
for Inspections and Policy

42003-#1-114



AMERICAN BAR ASSOCIATION

Section of Public Contract Law

Writer's Address and Telephone



2002-2003

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August 5, 2003

General Services Administration
FAR Secretariat (MVA)
1800 F Street, NW
Room 4035
Washington, DC 20405

Attn: Laurie Duarte

Re: Notice 2003-N01;
Posting Awarded Contracts on the Worldwide Web;
68 Fed. Reg. 33950, June 6, 2003

Dear Ms. Duarte:

On behalf of the Section of Public Contract Law ("Section") of the American Bar Association ("Association"), I am submitting comments on the above-referenced matter.¹ The Section consists of attorneys and associated professionals in private practice, industry, and government service. The Section's governing Council and substantive committees contain members representing these three segments to ensure that all points of view are considered. In this manner, the Section seeks to improve the process of public contracting for needed supplies, services, and public works.

¹ The Honorable Mary Ellen Coster Williams, Chair of the ABA Section of Public Contract Law, has recused herself on this matter, did not participate in the Section's consideration of these comments, and abstained from voting to approve and send this letter. Similarly, Council Member Daniel I. Gordon recused himself on this matter and did not participate in either the preparation or approval of these comments.

Ms. Laurie Duarte
July 29, 2003
Page 2

The Section is authorized to submit comments on acquisition regulations under special authority granted by the Association's Board of Governors. The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the Association and, therefore, should not be construed as representing the policy of the American Bar Association.

Although the Section generally supports the idea of optimizing the availability of procurement-related information using channels such as the Internet, the Section believes that the program proposed by the General Services Administration ("GSA"), which would make awarded contracts available via the Internet (the "Pilot Program"), is not an appropriate method for providing access to procurement information.

The Pilot Program, if implemented, would create a host of challenges and issues, legal and otherwise, to government procurement managers and contractors alike. In addition to discussing these issues more fully below, the Section also offers a suggested alternative to provide the public with an appropriate set of procurement information that would satisfy the goals of the original proposal while protecting the sensitive business information of contract awardees.

A. Legal Issues

Publishing all awarded contracts on the Internet poses several legal problems that the Notice and Request for Comment regarding the Pilot Program too quickly dismisses. The Notice states that "any proprietary information contained in a contract covered by the pilot would be redacted before posting." Aside from the administrative burden that the effort to redact contractor-sensitive information would require, the fact that the contracts do contain contractor-sensitive information causes the need to identify which information is sensitive and which is not. As discussed below, the law in this area is uncertain at best.

Consistent with the goals of the Pilot Program, courts have found that general policy considerations strongly favor the disclosure of awarded contracts to permit the public "to evaluate the wisdom and efficiency of Federal programs and expenditures." *Racal-Milgo Government Systems, Inc. v. SBA*, 559 F. Supp. 4, 6 (D.D.C. 1981). Nevertheless, an agency is certainly not precluded from withholding portions of an awarded contract where warranted under Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552 *et seq.* Exemption 4

Ms. Laurie Duarte

July 29, 2003

Page 3

applies to "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." 5 U.S.C. § 552(b)(4) (2002).

Exemption 4 protects the interests of both the Government and submitters of information, encourages submitters to voluntarily furnish useful commercial or financial information to the Government, and provides the Government with an assurance that such information will be reliable. This FOIA exemption also affords protection to those submitters who are required to furnish sensitive and proprietary commercial or financial information to the Government by safeguarding that information from the competitive disadvantages that could result from disclosure. See Attorney General's Memorandum for Heads of All Federal Departments and Agencies Regarding the Freedom of Information Act (Oct. 12, 2001), *reprinted in FOIA Post* (posted 10/15/01) (recognizing fundamental societal value of "protecting sensitive business information").

Some of the most sensitive contractor information contained in awarded contracts relates to pricing. Although courts have historically leaned towards allowing government disclosure of contract unit and other pricing data under FOIA, the United States District Court for the District of Columbia recently rejected the Government's argument that compliance with FOIA required agencies to disclose out-year prices in multi-year contracts. In *MCI Worldcom, Inc. v. United States* and *Sprint Communications Co. v. United States*, the court agreed with plaintiffs that prices offered to government customers in future years could be protected from FOIA disclosure as trade secrets. 163 F.Supp.2d 28, 37 (D.D.C. 2001).

In the *MCI Worldcom* case, GSA had awarded eight-year contracts (including option years) for long-distance telecommunications services to Sprint and MCI Worldcom in December 1998 and January 1999, respectively, under the FTS2001 program. The contracts provided that only then-current-year unit prices would be made public over the course of the contracts. Nevertheless, GSA later informed its contractors that it was changing its policy and that, in response to FOIA requests, it would make public all prices under the subject contracts. Sprint and MCI Worldcom brought reverse-FOIA actions against GSA. The court found that GSA's decision to release the out-year prices was contrary to the Trade Secrets Act and to the Federal Acquisition Regulation ("FAR") and violated GSA's own FOIA regulations. The court also determined that GSA departed from its own precedent not to release future year prices without a reasoned explanation.

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July 29, 2003

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The court's decision, which relied upon the 1999 decision of the U.S. Court of Appeals for the District of Columbia Circuit in *McDonnell Douglas Corp. v. NASA*, 180 F.3d 303 (D.C. Cir. 1999), has generated a great deal of discussion in the federal procurement community. In fact, proposed modifications to the FAR's competitive debriefing rules issued earlier this year acknowledge that, as a result of the decision in *MCI Worldcom*, "the treatment of unit prices under exemption no. 4 of [FOIA] is in a state of flux which may cause a revision to FAR 15.503(b)(1)(iv) to clarify the release of unit prices." See Federal Acquisition Regulation; Debriefing—Competitive Acquisition, 68 Fed. Reg. 5778-01 (2003) (to be codified at 48 C.F.R. pt. 52) (proposed February 4, 2003). Moreover, the logic of the *MCI Worldcom* decision applies with equal force to the protection of pricing information in multiple-award contracts, where the competition for the task and delivery orders under those contracts will occur over the term of the contract based on the original, awarded pricing.

In summary, what is and is not considered "proprietary information contained in a contract" is clearly open to interpretation, and simply offering to redact this type of information prior to publishing awarded contracts on the Internet ignores the quagmire of sorting out the proprietary from the non-proprietary information. Therefore, the Section believes that the legal and administrative burden that the redaction process will create will cost the taxpayer far more than it would for an agency to respond to individual FOIA requests.

B. Potential Costs and Production Burden

In addition to the legal issues raised above and the costs associated with the administration and resolution of those issues, publishing awarded contracts on the Internet creates an entirely new burden on both the Government and its contractors. The redaction process, however it ultimately is handled, or by whom, is time consuming and costly. Even if there are no disagreements between an agency and its contractor regarding the nature of the information that might be disclosed, it still takes time to go through a contract line-by-line to identify potentially sensitive contractor information or to ensure that none exists. It is simply unreasonable to require contractors, some of which hold many hundreds of contracts with government agencies, to undergo the redaction process for every single contract when many, if not most, of those contracts likely will be of no interest to the public.

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On the other hand, if a member of the public expresses interest in a particular contract through FOIA, responding to those requests, although also time consuming and costly, occurs only occasionally, and not for every single contract awarded by an agency and won by a contractor. Indeed, the Section understands that the number of FOIA requests received throughout the Government for contract materials is relatively small compared to the number of contracts actually awarded. As stated earlier, the FOIA process, although it arguably does not allow the “transparency” desired by public interest groups, serves to protect the interests of both the Government and its contractors, and hence the interests of the taxpayer as well.

C. Alternative Public Disclosures

As the Notice and Request for Comments acknowledges, the Government has undertaken several important steps to increase the transparency of the procurement process, including the FedBizOpps Internet site, the interagency contract directory, and the Federal Procurement Data System—Next Generation. These resources have and will enable the Government, its contractors, and the public to obtain access to a broad array of procurement and acquisition information without subjecting agencies and contractors to the time-consuming expense and effort needed to review each and every contract and engage in a potentially disputed redaction process. Indeed, the Section believes that the Pilot Program will bog down the acquisition process rather than improve it.

As an alternative to the Pilot Program, the Section recommends offering a more standardized set of procurement information for each contract awarded. This information would include items that are or should be indisputably publicly available, such as the solicitation, the Independent Government Estimate (“IGE”), and the identity of the contract awardee. This set of information would offer the public sufficient non-sensitive information to understand the procurement intentions and goals of the agency, including the magnitude of what it planned on spending on each contract, as well as provide interested parties with information regarding potential subcontracting opportunities. Such a standardized process would also avoid the enormous costs and administrative burden that publishing every contract awarded on the Internet would place on both the Government and its contractors.

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The Section appreciates the opportunity to provide these comments and is available to provide additional information or assistance as you may require.

Sincerely,



Hubert J. Bell, Jr.
Chair-Elect, Section of Public Contract Law

cc: Mary Ellen Coster Williams
Patricia H. Wittie
Patricia A. Meagher
Marshall J. Doke, Jr.
Norman R. Thorpe
Rand L. Allen
Gregory A. Smith
Council Members
Co-Chairs and Vice Chairs of the
Commercial Products and Services Committee
Richard P. Rector

N 2003 # 1-115



XeyeDolphn@aol.com

08/09/2003 02:28 PM

To: Notice.2003-NO1@gsa.gov

cc:

Subject: Federal Contracts

Please begin making federal contracts available to the general public on the worldwide web. We have the right, as taxpayers, to be fully informed about all such transactions. Steve Robbins

N2003#1-116



Indentdeny@aol.com

08/08/2003 11:32 PM

To: Notice.2003-NO1@gsa.gov
cc: Plaasmabox@aol.com
Subject: The OMB open policy online

To Whom it may concern at General Services.

I am very concerned about all of the "contracts" the government makes with private as well as public entities involving all aspects (not just but certainly military/industrial and politically involved Pentagon motivated contracts and things conducted in all aspects of our countries infrastructure and it's megalithic exoskeleton that reaches into Nasa and space) of our lives as CIVILIAN CITIZENS and protean members of our "nuclear family" in the United States.

To be clear, I am one of many willing to sign my name to a petition that keeps the GSA and OMB initiative moving and I WANT TO SEE MORE things like the FOIA (Freedom of Information Act) things MORE farreaching so information will be readily available for a DEMOCRATICALLY RUN government involving ALL THE PEOPLE potentially BEGINNING with "declassifying" contracts ONLINE.

I was moved by Ralph Nader's article a friend sent me in the SFBay Guardian and as a New York resident spend a great deal of my time watching our government routinely negate the needs of "HOMELAND SECURITY" HERE AT HOME and denying funds to "Primary Responders" amidst a WASH of high prices which may become more manageable if it weren't for cronyism, and the incestuous climate of the multinational corps and CLOSE government "special interest groups" (from Rolls Royce that supplies bullet proof cars to Lockheed that works with so many things from energy to airplanes and have been known to INFLATE PRICES...why not go for a smaller more energetic yet cheaper company if they can honestly and earnestly COMPETE ??). This is supposed to be a capatalistic society yet it appears more and more than "Monopoly" has comprised our ability for true "competition" and then no wonder our economy is OUT OF CONTROL.

I will be voting as I find my conscience and I do support and buy from persons that keep the HUMAN ELEMENT and our INTERNATIONAL and GRASSROOTS community groups as well as most intelligent and creative individuals the chance to SOLVE our countries problems instead of contributing to them: I feel certain that disclosure of information on contracts with the Pentagon and the Government at large for things that aren't "case-sensitive" (which much can be found out just by visiting an Army website about who supplies THEIR NEEDS) which is MUCH INFORMATION and I would argue perhaps ALL information should be given to the public that should be enabled to have a chance to use it's selling as well as it's buying power to offer solutions and even "wares" to Washington despite "Campaign promises" and the wholesale "buy outs" such currently "high cost" and "high profile" electioneering keeps from greasing many of our now rusty wheels of industry in all it's aspects and facets.

YES to Opening our White House's Budget up to the INTERNET to stimulate our very own "Town Meeting Hall" as in days of yore when Democracy was hatched here during such "meetings" with those that felt ready to contribute and take on the mantle of a fully grown citizen in a "real people's community" called "the colonies" then renamed "The United States of America."

#1-116

Amidst all the cacaphony and dissonance we can pull together so long as we are able to be always AWARE of who is serving what food to whom and for how much

so that we can also know WHO is pulling things apart. This is "responsible consumerism" and it MUST begin with our government since it does with our people whose demographics are tracked every day of the week by interested corporate groups and marketeers. I believe it should be the same for ALL the powers that be.

Executive, Judicial, Representative... EVERYONE!!

Thanks for hearing me.

A CONCERNED CITIZEN FOR THE FREE FLOWING MOVEMENT OF INFORMATION BY OUR GOVERNMENT ON THE INTERNET.

And hey, it might make a lot of vultures in the press less hungry and starving for carrion if the figures are already out there. We wouldn't need a shovel

to go DIGGING for the truth. Imagine if THE TRUTH which is supposed to be so valuable was just out there for all of us to see with the same accountability (or alleged accountability) as many groups must show in disclosing their own contracts; far smaller and far less impacting on all of our lives than the movements of those that are the powerbrokers in Washington, DC in these United States.

Sincerely,

Elizabeth Maurant
Citizen of the United States of America
(As of now, and BY BIRTH)

2003 #1-117



August 6, 2003

General Services Administration
FAR Secretariat (MVA)
1800 F Street, NW, Room 4035
Attention: Ms. Laurie Duarte
Washington, DC 20405

Dear Ms Duarte:

The Aerospace Industries Association appreciates the opportunity to provide comments on the Integrated Acquisition Environment program office pilot program of posting awarded contracts on the Worldwide Web. AIA member companies support transparency in government, however, without strict adherence to the due process methodology envisioned under the Freedom of Information Act (FOIA), our members consider posting of contracts on the web to be potentially damaging to the preservation of competition in government contracting. Much of the information within the contract can be proprietary, competition sensitive, may affect national security or be subject to export controls. Hence, posting the whole contract poses a significant risk of improper or unintentional release of information that should remain private. Despite the government's best efforts to redact information that should not be released, errors are almost certain to occur. Those errors can have serious adverse consequences to both the corporate entities involved in the contract and to the security of the country.

Consider, for the moment, the issue of posting unit prices for products and services. These prices are usually considered, by industry, to be proprietary. Therefore unit prices are protected from routine publication or release unless the Government follows the process defined by FOIA, as supplemented by various regulations and instructions, including those provided by the Department of Justice (see Encl. 1.)

This position is well supported. The Department of Justice has indicated that release of unit prices should require prior notification of the affected party and should be judged on a case-by-case basis of competitive harm. Likewise, FAR Case 2002-014, issued as a proposed rule in the Federal Register, Vol. 69, No. 23, February 4, 2003, noted that: "As a result of recent court cases, especially MCI WorldCom v. GSA (163 F. Supp. 2d 28), the treatment of unit prices under exemption no. 4 ...is in a state of flux which may cause a revision to FAR 15.503(b) (1) (iv) to clarify the release of unit prices."

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The government has no public purpose rationale that compels overriding the proprietary rights that companies have in their data or the security concerns of the U. S. Government. The assertion that releasing such information promotes competition and transparency is not a compelling argument. There are many avenues available to government agencies to promote those objectives. Improperly revealing proprietary information to competitors (foreign and domestic) is not an acceptable one. Exposure of such information on the worldwide web undermines the competitive position of those who also sell to commercial aerospace markets, such as airlines, and compete in foreign markets (even on military products sold and supported through direct commercial sales). By releasing sensitive information without prior approval as required by FOIA, such postings would provide competitive market information to other parties and price data which may reflect special conditions applicable only to the U.S. defense market. This, too, distorts the free market process, undermining rather than supporting competition. It was for this reason that the U.S. Court of Appeals held that proprietary unit price information on Delta II launches was exempt from disclosure by NASA under FOIA (McDonnell Douglas Com. v. NASA, 180 F.3d 303 (D.C. Cir. 1999)).

As in the McDonnell Douglas case, the basis for AIA's objection to the release of such data is that it constitutes information which is exempt from disclosure as "trade secrets and commercial or financial information obtained from a person and privileged or confidential" under FOIA (5 USC § 552(b)(4)). Exemption Four was designed to protect both the interests of commercial entities that submit proprietary information to the Government.

In addition, there is a practical issue to be considered in the proposed posting of contracts on the web and that is the sheer volume of government contracts that would of necessity have to be scanned or manually entered into the system. Once government activities have adopted full electronic contracting, there may be an opportunity for redacting information electronically, but to manually perform the function and to enter the contracts into the system must of necessity require substantial time and effort - with little visible benefit to be realized.

As an example of the problems facing the agency in dealing with these millions of contracts it is a common practice is to incorporate the proposal in the contract by reference. Would this too be posted with its indirect rates, profit factors, resumes of key individuals, proprietary technical information, etc.? The opportunity for error and disclosure of information that should be protected is extremely high. Development of a business case that takes into account these kinds of problems is essential to any decision to proceed with this pilot.

If the pilot proceeds, each contractor should be requested to identify the proprietary information in its bid or proposal without prejudice to the award of the contract. This information then must not be released without following the specific procedures provided by FOIA.

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We therefore request that GSA abandon the proposed pilot and not post contracts on the web, unless approval for release has been obtained for each and every contract pursuant to the FOIA.

If there are any questions, or if we can be of further assistance, please contact the undersigned at (703) 358-1045.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick D. Sullivan".

Patrick D. Sullivan
Assistant Vice President
Procurement and Finance

Enclosure

#1-117

Enclosure (1)

DOJ FOIA POST -Treatment of Unit Prices Under Exemption 4

The Submitter Notice Process

In sum, the net effect of these two decisions (*MCI Worldcom, Inc. v. GSA and MDC vs. NASA*) is that agencies now should pay renewed attention to their treatment of unit prices in accordance with the following approach:

First, agencies handling FOIA requests for unit price information should in all cases notify the submitter that such a request has been made in order to obtain and consider any objections to disclosure. Accord Exec. Order No. 12,600, 3 C.F.R. 235 (1988), reprinted in 5 U.S.C. § 552 note (2000), and in FOIA Update, Vol. VIII, No. 2, at 2-3; see also FOIA Update, Vol. VIII, No. 2, at 1.

Second, agencies should conduct a thorough competitive harm analysis of any objection that is made to the disclosure of unit prices through this submitter notification process. Accord FOIA Update, Vol. III, No. 3, at 3 ("OIP Guidance: Submitters' Rights"); see also FOIA Update, Vol. IV, No. 4, at 10 ("FOIA Counselor: Unit Prices Under Exemption 4"). Indeed, inasmuch as Judge Silberman made clear that the D.C. Circuit's decision in *McDonnell Douglas* did not establish a "per se" rule governing disclosure of unit prices, and because the clear focus of the decision was on the "explanation of the agency's position," it is imperative that all agencies, having afforded submitter notice, carefully evaluate any claims of competitive harm that may be made by submitters on a case-by-case basis.

Only by paying careful attention to the potential application of Exemption 4 to unit prices can agencies be sure that they will always have a sufficient administrative record on which to base and support their decisions.

#1-118



Council 26/AFSCME

CAPITAL AREA COUNCIL OF FEDERAL EMPLOYEES
729 15TH STREET, N.W., 7TH FLOOR
WASHINGTON, D.C. 20005
TELEPHONE: (202) 393-5757
FAX: (202) 393-5759

SAUL SCHNIDERMAN
President

RANDALL W. BAXTER
Vice President

GWENDOLYN EPPS
Treasurer

DAVID SALLAS
Secretary

August 5, 2003

(VIA E-mail: Notice.2003-No1@gsa.gov)

General Service Administration
Regulatory Secretariat (MVA)
1800 F. Street, NW., Room 4035
ATTN: Laurie Duarte
Washington, DC 20405

RE: Notice 2003-N01

CARL GOLDMAN
Executive Director

JOANNE G. PETERSON
Office Manager

DON MADDREY
Council Representative

JAY L. POWER
Council Representative

BETH COSTANZO
Organizer

IVY E. CHISLEY
Office Assistant

Dear Ms. Duarte:

On behalf of the 10,000 federal employees represented by the American Federation of State, County and Municipal Employees, Council 26 (AFSCME), I am writing this letter to offer comments regarding the General Services Administration and its Integrated Acquisition Environment Program Office to make Federal contracts more transparent and available to the public on the world wide web. AFSCME members, who work in numerous agencies including the Federal Aviation Administration, the Department of Justice, the Department of Agriculture, the Peace Corps, the Department of Justice, U.S. Commission on Civil Rights and Voice of America, are very interested in this effort to provide the public and federal employees with information regarding government contracts.

The history of corruption and waste regarding government procurement demands that the details of all contracts be available for public scrutiny. Due to this history of corruption, Congress and state legislatures have enacted laws that require government agencies to conduct competitive bidding as a means of disclosing to the public what services the government will be purchasing and to give interested parties a fair chance of bidding for the services. If the government is willing to disclose to interested parties through the bidding process details of the services that are being offered for private sector performance, it only seems logical that the final contract should be disclosed to all interested parties and the public.

Further, The Office of Federal Procurement Policy (OFPP) has recognized that the public should have access to the details of government contracts. The OFPP in a policy letter No. 78-3 dated March 30, 1978 stated that " Procurement is one of the principal means whereby our Government effectuates national policies, as to both

in the public service

**AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES
(AFL-CIO)**

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domestic and international concerns, and therefore the public has a strong interest in how it is conducted. The public's right to scrutinize the process must be recognized, particularly with regard to the terms and conditions of awarded contracts which represent government action, and with regard to contract deliverables."

AFSCME contends that government contracts are "public contracts" and that taxpayers and government employees have a right to know what the government has agreed to buy and at what price. AFSCME strongly encourages the General Service Administration and the Integrated Acquisition Environment program to launch the proposed pilot program to make the details of every government contract available to the American taxpayer. We believe that this will help make government more accountable to the American people.

On behalf of AFSCME Council 26, I appreciate the opportunity to comment and we look forward to your decision regarding this matter.

Sincerely,



Don Maddrey
Labor & Legislative Affairs Representative
AFSCME Council 26